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POLITICAL SCIENCE QUARTERLY.

CONTROL OF IMMIGRATION. II.

Do We Need the Immigrants?

IMMIGRATION, as has been shown in a former paper, has assumed such immense proportions in this country, that a very large alien element has already been introduced into our population; and it has also been shown that there are various indications that the character of the immigrants is deteriorating. These facts of themselves, if the evidence were perfectly clear and convincing, would lead us to think of instituting some measure of control in order to protect ourselves against the evil consequences which might ensue. But it is one of the difficulties of the question that the evidence cannot be perfectly clear and convincing. It can only be suggestive or indicative. We can only point out symptoms and make predictions. The part of Cassandra is always a disagreeable and ungrateful one. Prophecies of evil are always answered by an appeal to general principles and to past immunity. We shall be accused of taking a petty and narrow view of the action of social forces; and the past history of the country will be pointed to triumphantly as an exemplification of the grand effect of letting things take their own course. It will be expedient, therefore, to add to our previous inquiries a further one, and, admitting that immigration has in the past done all that is claimed, and that it has on the whole been a good and not an evil, it will be well to consider whether we any longer need the immigrants. Should we not be better off without them than with them? Would not our future political and economic development be

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smoother and more tranquil without this constant addition of foreign elements?

Perfect freedom of immigration has been defended on two grounds — the one ideal, the other practical. Freedom of migration is sometimes asserted to be a natural right of man and one of the products of political liberty with which we have no business to interfere. Coupled with this argument the notion frequently appears that this country was destined to be an asylum for the oppressed of all nations and that to refuse to allow them to come would be to prove faithless to our duty. On the other hand, unrestricted immigration has been defended on the ground of the immense economic advantage of this constant addition to the labor force of the community. It is proposed to deal here only with the second of these reasons. The first is a question of principle and of political science and will need separate treatment.

The economic advantage of the constant addition to our working population of these immigrants, a majority of them males and largely in the most productive and strongest period of early manhood, has been often insisted upon. European economists have seen with regret this depletion of their strength, and we have had a lively sense that we were getting the better of the effete monarchies of Europe by luring from them their strong young men. The estimates of these advantages however have always been of the most vague and general character. It has been taken for granted, and very rightly too, that with our immense unoccupied territory almost any addition to our population was useful in developing our resources and was to be welcomed. Further, it has been felt that what was mourned as a loss by the countries of Europe must be a corresponding gain to us. The time has come when we should seek to determine more exactly the quantity and quality of this gain in our present stage of development, and not go on trusting to the generalizations of a quarter of a century ago when the condition of things was entirely different. It is above all necessary to get rid of the idea that what is a loss to the countries of Europe is of necessity a gain to us. To Germany,

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for instance, emigration may or may not be a loss. The Germans themselves are not agreed upon that point at the present time. But however it may be with Germany, the question which confronts us is distinct and independent. Whether the immigrants are a gain to us depends upon our own social and economic condition. Let us, then, endeavor to determine what economic gain accrues to us from immigration.

The economic gain consists in the extent to which the labor force of the community is increased; in the amount of property which the immigrants bring with them; and in the money value of the immigrants themselves, reckoned upon the basis of what they will produce compared with what they have cost or will cost the community. It will be worth our while to examine each of these points in detail.

But before discussing these questions, it is necessary to explain the sense in which I use the word "immigrants," — *i.e.* to define the boundary which separates the earlier American stock from the later immigration. By the American or native stock, I mean the colonists: the men who settled the country and placed the initial imprint upon its civilization; who determined, at the outset, its language, its laws and its institutions. By immigrants I mean those who came after the state was established and society had taken form. The year 1790 is a convenient point at which to draw the line between the two classes, because at that time the political and social organization of the country was fairly settled, and the first census was taken.

Now there is an impression that the present population of this country is due far more to immigration than to the natural increase of the native stock.[1] It is further believed that the

[1] The late Mr. Friedrich Kapp is responsible for many of the absurd notions afloat about the extraordinary influence of immigration on the population of this country. Following a certain Mr. Schrade, — who had attempted to show to a convention of brewers, alarmed by the prohibition movement, that the "Yankees" had really had very little to do with the making of this country and were already in a minority, — Kapp started with the excess of births over deaths returned by the census of 1850. This excess was 1.38 per cent of the free population. Working with this figure and on a basis of a total white and free colored population in 1790 of 3,231,390, Kapp calculated that their descendants in 1865 would have amounted to 9,034,245. The total population at that date, exclusive of the newly enfranchised

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fruitfulness of the native stock is decreasing, and that we shall be dependent upon the immigrants and their descendants for any further growth in our numbers. There is absolutely no trustworthy foundation for either of these conceptions. In the absence of a registration of births and deaths in the United States, it is impossible to say how many of the present inhabitants of the United States are descendants of the native element, and how many of the immigrants. There are two ways in which we can guess at it. One is on the basis of the 14,955,966 persons in the United States in 1880 who had one or both parents foreign-born. That number represents the survivors of the immigrants and their descendants to one generation. But many of the immigrants who came in the earlier years are now represented by the third or in some cases even by the fourth generation. These should be added to the previous number. The number of immigrants who arrived here previous to 1850

slaves, was nearly 30,000,000, so that immigration had added 20,965,975 persons. The foreign-born and their descendants were therefore more than twice as numerous as the descendants of the original American population! — See Kapp, Immigration and the Commissioners of Emigration, p. 152.

The fallacy of Kapp's estimate was exposed in the most convincing way by the late Dr. Edward Jarvis, in the April number of the *Atlantic Monthly* for 1872. He showed that the percentage 1.38, which Schrade took out of the census for 1850, was in no sense the real excess of births over deaths and was not put forward by the census as such. He showed, further, that the returns of births and deaths made to the census were so incomplete that absolutely no birth-rate or death-rate of any value could be figured from those returns. In addition it is altogether ridiculous to take a birth-rate or an excess-rate of 1850 and carry it back to the early years of the century when we know that the increase was very large. In respect to Kapp's figures, Dr. Jarvis showed that the foreign-born and their descendants, as he gave them for the year 1865, could be accounted for only by a much greater immigration in the early years than the official figures show, or by an enormous fruitfulness of the immigrant women. But Kapp accepts the figures of immigration as substantially correct, and on that basis, during the years 1790–1800, every female immigrant between the ages of 20 and 40 must have lived in uninterrupted wedlock and have borne 18.07 children each year. During the decade 1800–1810 each female immigrant of that age must have lived in uninterrupted wedlock and have borne 10.13 children each year. During the decade 1810–1820 each such female must have lived in wedlock and borne 1.9 children each year. From 1820 to 1830 each woman must have had a child every sixteen and a half months; and during the decade 1830–1840, a child every fifteen months. The statement, therefore, that in 1865 only nine million descendants of the original American population were living is altogether absurd.

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was nearly 2,500,000. Granting that these immigrants are now probably represented by grandchildren, and in some cases by great-grandchildren, and that by the natural increase of each succeeding generation the number would have doubled, we shall have five millions to add to the first number, making about twenty millions in all. This however is only guess work.

A second method of estimating the number of our present population who are of foreign descent was pointed out by Dr. Edward Jarvis.[1] He calculated the natural rate of increase from decade to decade by taking the increase reported by the census and subtracting from it the number of immigrants who had arrived during the decade and their increase. This rate of increase he applied then to the native and foreign-born alike — an assumption which was of course entirely arbitrary but which was necessary, there being no data upon which to base any distinction. By this method of computation, it appeared that in 1870 the number of whites of foreign descent was 11,607,394 and the number of native descent was 21,479,595. Carrying on the same calculation to 1880, it appears that the number of foreign descent was probably about twenty millions and of native descent about twenty-five millions. Using the rate of increase of the decade 1870–1880 to carry the calculation still further, it would appear that at the close of 1887 the whites of foreign descent numbered about twenty-four millions, and of American descent twenty-eight millions.

These results are sufficiently startling when we are considering the constituent elements of our population, but they dissipate the absurd claims of some of our foreign-born citizens that the present power of the United States is due entirely to the immigration of foreigners since 1790. The calculation is based, of course, on the supposition of an equal share in the increase from decade to decade. But there is no evidence that the native-born have any less power of increase than the foreign-born. In Massachusetts it is said that the foreign-born women have a larger number of children than the native-born, but that a less number survive to maturity. By the census of 1885 it was shown

[1] In the *Atlantic Monthly* for April, 1872, vol. 29, p. 468.

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that the proportion of married among the foreign-born in Massachusetts was but slightly greater than among the native-born.

But leaving the historical side of the question, and taking the problem as it stands, — the population that we are concerned with now is this mixed population of descendants of natives and foreigners. Its rate of increase is large enough to allay any fear lest by stopping immigration we should stop the increase of our numbers. From 1870 to 1880 the white population of the United States increased by 9,815,981. There arrived during the decade, 2,944,695 immigrants. In 1880 these immigrants had lived here an average of 3.7 years. Allowing them an increase during that period of two per cent per annum, the total number of immigrants and their increase down to 1880 would have been 3,162,502. This would leave 6,653,479 as the natural increase of the white population during the ten years. This means an increase of 19.48 per cent in ten years. The negroes probably increase faster than the whites, so that it does not seem at all improbable that the population of the United States is increasing naturally at the rate of two per cent per annum. That means that we are adding to our population every year 1,200,000 souls. If there had been no immigration since 1880, we should have numbered in 1890, 60,000,000 persons. We reached that number last year, so that immigration has enabled us to anticipate the growth of a decade by three years.

Will not this natural increase of population, which is now over one million per annum and in a few years will probably be a million and a half per annum, be sufficient to give us all the labor force that is necessary for the development of the country?

We may profitably in this connection consider for a moment the law of population as laid down by the economists and, in certain phases of it applicable here, admitted by all. Every population has an almost unlimited power of natural increase. This natural increase is checked by the lack of food or by such destructive influences as wars, pestilences, vice, crime, *etc.* From all these checks the United States, during the greater part of its history, has been remarkably free. There is also the so-called prudential check, namely, that population will not in-

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crease so as to lower its standard of living. Men will marry later or have a smaller number of children rather than give up for themselves and their children the comforts to which they have been accustomed. Within these limits population will respond to any demand for increased numbers. That is shown in the case of Germany, where the loss by emigration has constantly been made up by an enormous birth-rate. So, in the United States, there is no doubt that any increased demand for labor, at the rates of remuneration which would allow of the present standard of comfort being maintained, would be responded to at once. Of course at the beginning of a process of colonization, when the number of inhabitants is very small, such a response can be made only in part, and under those circumstances immigration may be a necessary adjunct. But our population has passed beyond that point. Any increased demand for labor compatible with the maintenance of the present standard of living will be responded to by natural increase.

What are we doing, now, when we admit these thousands of foreigners every year, many of them with a lower standard of living than prevails in this country? We are simply adding to our population without any regard to the standard of living. It is difficult at the best to induce a population to adopt the prudential restraint, — to refrain from getting married, and having children unless there is a reasonable prospect that their children will be able to maintain themselves in the same habits of life as their parents, — but a continuous immigration removes even that possibility, for the place which would have been taken by the children is now taken by the foreigner. Every reward for self-restraint and prudence is thus taken away.

The ideal sort of population is not one that increases with enormous rapidity. It is one where there is a small number of births, a small number of deaths, and a long average of life, and where the people are kept in good health and strength. Such an ideal population can exist only where there is a high standard of living, where there is prudence and self-restraint, and where there is the hope that the position of the children may be better than that of the fathers. It is not possible where the

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chance of bettering their condition is cut off by constant competition, where the standard of living is dragged lower and lower, and where an artificial stimulus is put on the increase of population. It is all very well to preach to the laborer habits of thrift and forethought; but the lesson will be of no avail if the conditions are such that the habits are of no avail. Besides, if we are to have an increase of population, is it not better to have it by natural increase? Is it not better to train up the new workers in our ways, to have them familiar with our language, our customs, our habits, our methods of production? Would it not be easier to fit such persons to the places where they are needed than the mass of unskilled labor that comes to us from abroad without any regard to the demand for labor here? Such an increased labor-force would be more homogeneous, would be better trained, and would have a higher standard of living, than that which we get in the present blind way.

Behind the vague and general feeling against any restriction of immigration which exists in many quarters, there are two motives which come out more or less clearly into consciousness. One is the feeling of employers and capitalists that they would thereby cut off the supply of labor and thus put themselves at the mercy of the labor organizations. There is perhaps among these employers no positive desire that the standard of living in this country shall be reduced and labor thus be made cheaper; but there is a well-defined feeling against restricting the supply of labor. A second motive, much more wide-spread and influencing not only the employers of labor but all citizens, is the belief that immigration is an immense economic gain to the community, and that by restricting it we should suffer a dead loss. Let us examine the grounds of this belief.

The immigrants, in the first place, bring with them a considerable amount of money. Each one sells what he has in the old country and brings the proceeds, in the shape of money or drafts or goods, to be invested in the new. In this way there is a constant stream of capital flowing from Europe to the United States which never appears in the statistics of imports and which has not to be offset by exports. This is a clear economic gain, and when

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the immigration is heavy this invisible supply of wealth is very considerable and adds to our general prosperity. Various attempts have been made to ascertain how much this sum amounts to. In 1856 the immigrants who landed at the port of New York were asked how much money they had with them, and the average was $68.08 *per capita*. It was said at the time that this amount was probably too small, because many of the immigrants would be apt to suspect that the question was asked from some fiscal motive and would put the amount too low. Kapp in particular thought the amount was too low, and estimated that the amount brought by each immigrant was at least $100. This would indicate that there was an annual movement of thirty or forty or fifty millions of gold to this country which did not appear in the balance of trade — no inconsiderable sum. At the present time Kapp's estimate is probably too large. Our immigrants come more and more from the poorer classes of society, so that the sum *per capita* brought in 1856 is probably no longer brought now. We have some German estimates which indicate a smaller sum; and whatever the Germans bring, it is probable that the Irish, the Italians, the Hungarians, *etc.*, bring still less. The latest German authority[1] estimates that the emigrants take with them from 300 to 400 marks each, that is from $75 to $100. An Italian able to raise that sum of money for each member of his family would never think of leaving home.

It must be granted, however, that the immigrants do bring with them a certain amount of wealth, although that amount is probably not very large at the present time. Against this, two things are to be taken into consideration. One is that the inflow of gold into this country is offset by the outflow due to remittances to friends abroad. These remittances are either for the purpose of supporting those who have been left behind, or of paying their passage to this country. Their exact amount has never been ascertained, as they go for the most part through the hands of private bankers or steamship companies. Mr. Giffen prints every year, in "The Statistical Tables relating to Emigration and Immigration from and into the United Kingdom," a

[1] Becker, Unsere Verluste durch Wanderung, in Schmoller's Jahrbücher XI, S. 776.

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table of the amount of such remittances, furnished through the courtesy of certain bankers and mercantile houses. The table is not at all complete, for there is no means of ascertaining the amount transmitted through private parties and firms unwilling to make a return. Since 1848 no less than £32,294,596 have been thus sent back by settlers in the United States and British North America. In the year 1886 the amount was £1,276,033. The number of emigrants of British and Irish origin going to the United States and British North America during the year was 177,455, so that for the money that each emigrant took out with him we know that a sum equal to $35 was returned. We must also remember that there is a tide of returning immigration to the old countries. Many of the emigrants, after they have acquired what to them is a competence, return to pass the remainder of their days in the old country. All these returning emigrants carry money with them and often, doubtless, large sums. Thus in 1886 there were no less than 60,076 persons of British and Irish origin who returned to the United Kingdom from the United States and British North America. This would leave a net emigration of 117,379, and the money taken by these emigrants would be offset by the above sum of £1,276,-033, equal to a *per capita* sum of $52.84. Is it not probable that the balance is against the United States?

There is one other way of looking at this matter, when one is inclined to regard every dollar of money that the immigrants bring with them as so much gain to the United States. It has been suggested by the efforts of a German statistician to prove that the loss by emigration is not so great as it seems to be. Becker[1] remarks that when an emigrant takes 300 or 400 marks out of the country with him, he is not really taking his share of the national fortune. The *per capita* wealth of Germany is at least 3000 or 4000 marks, so that the sum each emigrant takes with him is only one-tenth part of the average national wealth. So long as emigration does not cripple the means of production, it simply leaves a proportionately larger share of the national wealth for every one who remains. If we turn to this country

[1] In the article cited above.

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we shall meet the reverse phenomenon. The average wealth in this country must be at least $1000 *per capita*. What does it mean when we add to the number of our citizens thousands who possess only $100 each? Is the country by that fact alone better or worse off? The sum total of wealth has been increased, but the average well-being of the community has been decreased. These men add to the cost of the social organization, while they do not bring the property which is to pay the taxes to defray the cost of such organization. In a club there is always an initiation fee for new members; and as the club increases in prosperity and wealth this initiation fee is often raised, with the perfectly just feeling that membership in the club has come to be worth more than when it was first started. It will be said that the immigrant gives himself to the new country and thus pays his initiation fee. In that case the amount of money he brings with him is utterly insignificant. If he is worth having, it makes little difference whether he brings money with him or not. If he is not worth having, then the paltry sum that he brings does not begin to pay for the risk of receiving him.

The real economic gain to the United States by immigration consists in the value of the full-grown labor supplied to it without expense by the countries of Europe. Every person passes through two periods of life, — that of unproductive childhood when he is only a burden to the community, and that of productive manhood when he not only supports himself but reimburses the community for the cost of bringing him up. The longer this second period compared with the first, the better for the community, for the total cost of the unproductive period is spread over a greater number of years. The larger the number of persons in this second period compared with the first, the lighter is the burden upon the community, for it is shared by a larger number of persons. Of the immigrants into the United States, about 20 per cent are below the age of fifteen, about 70 per cent are between the ages of fifteen and forty, and the remaining 10 per cent are above the age of forty. In other words, four-fifths of the immigrants are in the second period, that of productive manhood, and the great mass of them in the most pro-

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ductive part of that period, that of early manhood. These full-grown immigrants have been brought up by the countries of Europe and then presented to us able to support themselves and others. When one considers that the main effort of the world, after all, is to keep itself alive and to provide a future generation to take the place of the present, the economic value of such a gift is enormous. It is like a workman having the latest and best tools provided for him without expense while he is paid for the increased product on the same basis as if he had made the improvements.

To the countries of Europe emigration appears, in a similar way, as a dead loss. They bring up children to the full age of manhood and then lose them before the cost of their nurture is repaid. To Germany, for instance, the increase of population seems like a constant substitution of infants for full-grown men, Germany paying the expense of the operation in each case. That there is such a drain on Germany by emigration will be seen by a close study of the following very suggestive little table:

OUT OF 100 PERSONS THERE WERE[1]

Of the Age —	Among the Emigrants.	In the German Population.
0–10 years	27.1	24.6
10–20 "	17.1	19.7
20–30 "	30.7	15.9
30–40 "	14.1	13.4
40–50 "	6.3	10.3
50–60 "	3.1	8.4
60–70 "	1.3	5.1
70 and over	0.3	2.5

One sees at once the heavy drain on the population between the ages of 20 and 30. Germany is steadily losing a portion of

[1] Monatshefte der Statistik des deutschen Reiches, 1882, Januar, S. 17. Quoted by Rümelin (see below), who also says that while 39 per cent of the German population are between the ages of 15 and 40, over 60 per cent of the emigrants are in those years. — The same thing is shown by the following table, from Statistisches Jahrbuch des deutschen Reiches, 1882:

OF 1000 INHABITANTS OF EACH AGE THERE EMIGRATED IN 1880

Under 10.	10 to 20.	20 to 30.	30 to 40.	40 to 50.	50 to 60.	60 to 70.	Over 70.
2.36	2.43	5.21	2.51	1.36	0.87	0.60	0.20

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her population that is of the utmost value to her in every way, economically, socially, and for national defence. It is like an annual tribute paid to a foreign country, and, like some of the ancient tributes we read of, paid in choice men.

It would be absurd to contend that such a movement as we have depicted — the bodily transference of such a labor force from one country to another — has no economic significance. We study with care the statistics of imports and exports; we watch with interest the movements of the precious metals; we encourage industry by artificial tariff regulations; and we are quite sure that all these things have an important influence on the prosperity of the community. Is it not probable that this shifting of labor is as important in its influence on the happiness of the community as the balance of trade or the fluctuations in the rate of discount? No one can deny that such possibilities are present; but it is necessary that we take care to judge this influence rightly and measure its force correctly.

Various attempts have been made to express in figures the economic value of the immigrant. The most common estimate of this sort and the one most widely known is due to Friedrich Kapp.[1] He simply values the immigrant at the cost of bringing him up. Kapp found an old estimate of Ernst Engel, the head of the Prussian bureau of statistics, that the cost of bringing up a child in Germany was $30.00 a year for the first five years, $37.50 a year for the second five years, and $45.00 a year for the third five years, making a total of $562.50 as the cost of bringing up a child to the age of fifteen, when it is presumably able to support itself. Kapp said that it would cost at least double that to bring up a child in the United States, so that the value of each immigrant above the age of fifteen is from $1000 to $1200. On this basis the money value of the immigration each year is very large. In the year 1886, for instance, the number of immigrants above the age of fifteen was 263,189. Taking them at the German valuation they represent a sum equal to nearly 170 million dollars, or at the American valuation a sum nearly twice that. The immigration of 1886 was not

[1] Kapp, Immigration and the New York Commissioners, *etc.*, p. 146.

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excessive, — in fact it was below what it is now, — so that immigration represents hundreds of millions of dollars saved to the United States each year.

It is easy to point out how superficial this method of estimate is. As Rümelin says,[1] it belongs to the half-truths or pseudo-truths of political economy. The worth of a man is not measured by the cost of bringing him up, coupled with the consideration whether he has paid this cost back to the community. If that were true, a man's greatest worth would be when he first acquires physical strength; and the experienced man of forty would be of less value than the raw youth of eighteen. Nor is every man worth the cost of his bringing up. Of the immigrants into this country, some are already disabled, some will die in a few years, others will land in the poor-house and still others will be found in our asylums and jails, an absolute burden to the community to which they are said to be worth $1000 each. The value of a man lies in his capacity and character, not in what it has cost to bring him up. If the immigrant finds an opportunity here to exercise the talents he possesses, he is of value to himself and to the community, whether it has cost $500 or $1000 to bring him to the age of manhood. If he is a vagabond, ignorant, lazy, or vicious, then he is worse than of no value to the community that receives him, and the country that has gotten rid of him may well be congratulated upon losing that form of capital.

This way of looking upon the cost of bringing up children as an investment of capital is wholly fallacious. The cost of rearing children can scarcely be said to be a loss of capital. It is true that they have cost the parents labor and sacrifice; but the sacrifice has been made and the parents are in the same position in which they would otherwise have been, save that they have worked harder and have not had so many enjoyments as they might have had. They have preferred to bring up the children instead. So also Kapp's statement that it costs double to bring up a child in this country compared with the cost of bringing

[1] Rümelin, Bevölkerungslehre, in Schönberg's Handbuch der Politischen Oekonomie, 2. Ausg., 2, 2, S. 916.

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it up in Germany is in one sense true, but in another sense it shows the fallacy of the whole estimate. The reason why it costs double in this country is because we are so well off that we spend more on our children. We are so well off that we can afford to have children and to bring them up in an expensive way. That is the reason why our ancestors had such large families in the early days of the republic. Our forefathers were not wasting their capital, neither were they making an investment of capital; they were simply marrying and having large families because they were well to do. It is not to be looked upon as a matter of dollars and cents. It is a good thing, socially and morally, that men should have children and rear them. This forms the family tie and keeps up the continuity of social habits and traditions. If we could take our children at birth and send them over to Europe and have them brought up as German peasants or Irish cottiers or Italian lazzaroni at little or no expense, — would it pay us to do it?

A second method of estimating the economic value of the immigrant is to say that he should be valued in the same way as a slave. Whatever may be the character of the immigrants, — it is argued, — whether they come from the upper or the lower classes of society, whether they are desirable additions to the political or social elements in our country or not, whether they are ignorant or intelligent, skilled or unskilled, — they do represent a certain amount of brute force. There are a certain number of able-bodied laborers landed on our shores and prepared to do the rough work which we have to do. They certainly possess the value of the slave, who was also ignorant, unskilled and often degraded. The value of a slave before the war was perhaps $800 or $1000. Every able-bodied immigrant who lands on our shores is worth at least that, and perhaps worth more if he is a skilled laborer.

The fallacy is very similar to that exposed above, — namely, that of looking upon the man as an investment of capital. The slave *is* an investment of capital. He can be made to do a certain amount of unskilled labor by the fear of the lash. He can be fed and clothed in the cheapest possible way, so as to make

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the net return from his labor as great as possible. If he is not profitable in one employment he can be turned into another, and if he ceases to be of value in one part of the country he can be sold into another part. As a last resort, if it does not pay to support him, he can be worked to death and his place taken by new purchases or new importations — as was said to be the policy at one time of the West India sugar planters, who found it more profitable to work their slaves hard for a few years and then import new ones than to keep those they had in good condition.

But the immigrant is no slave. He is a free man. He works or not as he pleases, and when and where he pleases or chance determines. His consumption is regulated only by his own desires or his ability to satisfy those desires. It may be prudent and economical; it may be foolish, wasteful and even injurious. He may be willing to work; he may be entirely unwilling. The only lash is that of hunger, which in many individual cases proves utterly ineffective. The trouble is that it can be escaped by stealing or begging. To compare the value of the immigrant with that of a slave is to say that the free negroes of the West Indies are of the same economic value now that they were when they were slaves; while the fact is that liberty has simply taught them not to labor.[1]

There is, now, a third method of estimating the economic value of the immigrant, which is scientifically correct and which is the only one to be employed if we are determined to express in figures the value of this increase of our labor force. The value of the immigrant depends upon the amount of wealth he will add to the community befores he dies. From this of course must be deducted the cost of maintaining him while he lives. The result will be his net earnings. This, capitalized at the current rate of interest, gives us the present value of the man. It is exactly on the principle of a life annuity. To calculate the value of an immigrant you must know his expectation of life, his earning capacity and his expenses or the cost of maintain-

[1] See Mr. Froude's doleful account of the condition of the blacks in the West Indies.

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ing him. The method is not easy of application, for we do not possess these data. But the method is not at all a new one and some applications of it will throw light on our problem.

Dr. William Farr, for so many years the head of the statistical department of the registrar general's office in England, in a paper read before the London statistical society in 1853[1] gave elaborate tables showing the present value of the future earnings of an agricultural laborer, his future cost of maintenance, and the value of the excess, which is the economic value of the man. Thus, at the age of twenty, the value of an agricultural laborer's future wages is £482; the value of the necessary cost of future maintenance is £248; and the net value of his services is therefore £234. Or, taking the whole of the male agricultural laborers into account their mean gross value was £349: the mean gross value of the subsistence of the laborer as child and man was £199, leaving £150 as the net value of agricultural laborers, or of the whole male population estimated by this standard of the agricultural laborer. To extend the value to the whole population, including females, the standard might be lowered from £150 to £110. In the thirty-ninth report of the registrar general (1877) Dr. Farr proceeds to make an application of this method to the question of the loss to England by emigration. He says:

> The emigrants are chiefly adults married and unmarried; the men greatly exceeding the women in number. A few infants accompany their parents. Valuing the emigrants as the agricultural laborers have been valued at home — taking age and service into account — the value of the emigrants in 1876 was £175 per head.
>
> If we may venture to apply this standard to the whole period it will follow that the money value of the 8,000,000 people that left England, Scotland, and Ireland in the years 1837–1876 was 1400 million pounds sterling or on an average about £35,000,000 a year.[2]

This valuation, $875 *per capita*, is certainly high enough to satisfy the most ardent advocate of immigration.

Recently a German writer[3] has used the same method in es-

[1] William Farr, Vital Statistics, p. 60. [2] *Ibid.*
[3] Becker, Unsere Verluste durch Wanderung, cited above.

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timating the value of the German emigrant. Wages are lower and the margin of living much closer in Germany than in England. In fact the author reckons that, taking the whole laboring population of Germany of the class from which the emigrants come, their future earnings just cover their future consumption. The emigrants, however, are a select class as to sex and age, and he reckons the present value of the emigrant at from 800 to 900 marks, that is, from $200 to $225. This, Becker thinks, is a real loss to Germany. Farr takes a more cheerful view of the effect on England. He says:

> It may be contended that emigration is a loss to the mother country. It seems so. It is like the export of precious goods for which there is no return. But experience proves that simultaneously with this emigration there has been a prodigious increase of the capital of the country, especially in recent years. Wages have risen and the value of the laborer has risen in proportion. . . . When the man leaves the village where he was born and bred, he leaves the market open to his fellows, he removes to a field where his work is in demand, and carries his fortune with him. It is the same way when he emigrates to the colonies. His parents in rearing him have expended their gains in the way most agreeable to themselves. They have on an average five children, instead of two or three, or none. Taking a wider view, the emigrants create articles of primary use with which in exchange they supply the mother country; they have sent to England in the thirty-nine years wheat, cotton, wool, gold to the value of hundreds of millions.

But whatever the gain or loss to the home country, both authors are agreed that there is a gain to the new country and that this gain is measured in this way. In fact, as wages are so much higher in the United States and living not very much dearer, the present value of the laborer is higher here than it was at home.

There is the same fallacy in this estimate as in the other two. The present capitalized value of the laborer's future wages depends on his having an opportunity to earn those wages. The immigrant has an economic value only if there is opportunity for him to work. He is of use to us only if we can make him useful. This will depend on his character and capacity and on the work still to be done in this country and the number of

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men we have to do it. This brings us back to the question: Do we need the immigrant? Here we have an immense labor force offered us. Can we make use of it? And if we do make use of it, what effect will it have on the value of the present labor in the country? The answer to these questions is difficult if not impossible. Some considerations of the following sort may be suggestive.

In order to form any opinion on the question, whether or not we can make use of the immigrants, it is necessary to know what they can do, that is, what their occupation or profession is; and, again, to know whether they settle in that part of our country where such occupation can be successfully pursued. I believe far too little attention has been paid to these two points. Immigration has been welcomed as so much addition to our labor force, or denounced as a burden to our poor rates, without considering whether it is of the right sort or in the right place. But that determines most often whether it is to be a gain or a burden.

It is not probable that our statistics of the occupations of immigrants are very accurate in detail. They are collected in too hurried and careless a way to be strictly correct. But for our present purpose they are sufficient to show that the mass of the immigration is of common, unskilled labor. The statistics collected by the United States[1] show that nearly one-half of

[1] TOTAL IMMIGRATION CLASSIFIED BY OCCUPATION.

YEAR.	PROFESSIONAL.	SKILLED.	MISCELLANEOUS.	OCCUPATION NOT STATED.	WITHOUT OCCUPATION.	TOTAL.
1873	2,980	48,792	168,724	4,868	234,439	459,803
1874	2,477	38,700	117,041	4,233	150,889	313,339
1875	2,426	33,803	84,546	1,291	105,432	227,498
1876	2,400	24,200	72,275	910	70,201	169,986
1877	1,185	21,006	55,650	673	62,643	141,857
1878	1,510	16,531	57,806	738	61,884	138,469
1879	1,639	21,362	73,053	897	80,875	177,826
1880	1,773	49,929	188,109	2,194	215,252	457,257
1881	2,812	66,457	244,492	8,140	347,530	669,431
1882	2,992	72,664	310,501	10,619	392,210	788,992
1883	2,450	62,505	216,549	46,660	275,658	603,322
1884	2,284	55,061	184,195	31,665	245,387	518,592
1885	2,097	39,817	141,702	15,398	196,332	395,346
1886	2,078	36,522	137,651	496	157,456	334,203
Total	31,803	587,349	2,052,294	128,782	2,596,188	5,396,416

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the immigrants are without occupation, this including of course the greater part of the women and children. It appears, also, that of the immigrants with occupations about 1 per cent are professional, about 22 per cent are skilled artisans, and 76 per cent are unskilled laborers — for that is what the column "miscellaneous" really amounts to. In other words three-fourths of the immigrants are unskilled laborers.

These statistics are confirmed by those from the other side of the water. In 1886, out of 54,507 adult males (12 years of age and upwards) of British and Irish origin, who migrated from Great Britain to the United States, 26,096 were general laborers, 9171 were agricultural laborers, gardeners, carters, *etc.*, and 12,906 were of occupations not stated.[1] These latter were either boys or common laborers, so that it is entirely safe to say that three-fourths of the emigrants of British and Irish origin are laborers.

Of the emigrants from Germany in 1886 that came by the way of Hamburg, 33.58 per cent were returned as of no occupation. These are presumably the women and children. 24.89 per cent were laborers, 15.87 per cent were agriculturists, 16.70 per cent were of the industrial class and 8.96 per cent were of the commercial class. Excluding the persons without occupations, the

The same table expressed in percentages will give the following, no account being taken of the column "occupation not stated":

YEAR.	PROFESSIONAL.	SKILLED.	MISCELLANEOUS.	WITHOUT OCCUPATION.	YEAR.	PROFESSIONAL.	SKILLED.	MISCELLANEOUS.	WITHOUT OCCUPATION.
	Per cent.	Per cent.	Per cent.	Per cent.		Per cent.	Per cent.	Per cent.	Per cent.
1873	0.8	10.6	36.7	50.9	1881	0.4	9.9	36.5	51.9
1874	0.7	12.3	37.3	48.1	1882	0.38	9.2	39.3	49.7
1875	1.0	14.7	37.1	41.9	1883	0.4	10.3	35.8	45.6
1876	1.4	14.3	42.5	41.3	1884	0.44	10.6	35.5	47.3
1877	1.3	14.9	39.2	44.1	1885	0.5	10.0	35.9	49.7
1878	1.0	11.9	41.8	44.7	1886	...	10.93	41.2	47.11
1879	0.9	12.0	41.6	46.0					
1880	0.4	10.9	41.1	47.0	Total	0.59	10.9	38.0	48.1

Emigration and Immigration: Reports of Consular officers of the United States, pp. 3, 4.

[1] Statistical Tables relating to Emigration and Immigration from and into the United Kingdom in the year 1886.

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laborers and agriculturists constituted 61 per cent of those emigrants having occupations.[1]

Of the emigrants from Italy in 1885 (14 years of age and upwards), 59.63 per cent were husbandmen and shepherds, 12.43 per cent were navvies, porters, and other day laborers, 13.30 per cent were artisans and operatives, and 5.49 per cent were masons and stone cutters. That is, more than 72 per cent were farmers or laborers.[2]

It appears, then, that three-fourths of our immigrants are agriculturists or common laborers. Can we make use of that kind of labor? One more analysis will be necessary before we answer that question. One of the greatest misconceptions about this whole subject is, I believe, that all we have to do with this mass of immigrants is to put them on the land "out West" and make farmers of them, and farming is commonly conceived of as an unskilled occupation. Now the great mass of these laborers are not farmers at all or even farm laborers, as will be seen by reference to the statistics of Great Britain and Germany above. In the statistics of the United States, also, the farmers are always outnumbered by the laborers pure and simple. Thus in 1886 there were returned 20,600 farmers and 86,853 laborers. Even of these so-called farmers it is to be remarked that they are not farmers in our sense of the word. They are the farm laborers accustomed to do the rough hand work on the farms of Europe. They do not possess either the skill, or the capital, or the knowledge of modern methods and the use of agricultural machinery, requisite to enter into the ranks of the farmers of this country. At best they can only drift on to the farms and become farm laborers, and perhaps after a while, by thrift and industry, start kitchen gardening in the neighborhood of a large city. However, these farmers and farm laborers can be easily disposed of. There is plenty of land in this country, and if they will really become farmers or farm laborers there will be no trouble in providing them places and opportunity to earn a living. But the great mass of laborers are not farmers and

[1] Bulletin de l'Institut international de statistique, 1887, 2éme livraison, p. 53.

[2] Statistica della emigrazione italiani per gli anni 1884 e 1885, p. xix.

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are not fitted to become farmers. If you put them on the land they would not know how to cultivate it. Of their own disposition they are less likely to go into farming than anything else, because a farmer must rely to a great extent upon himself. This self-reliance is the quality they possess least of all. The number of immigrants of this class is very large, and it is this class that increases most with every increase of immigration. How numerous they are will be seen by the following figures:

NUMBER OF IMMIGRANTS CLASSED AS LABORERS, 1880–1886.

1880	105,012	1884	106,478
1881	147,816	1885	83,068
1882	209,605	1886	86,853
1883	136,071	Total	874,903

These are the men who build our railroads, who clean our streets, who handle our freight, who are employed more or less in every factory for lifting and moving heavy weights, trucking, cleaning up, *etc.* Can we make use of these men and in this number? He would be a bold man who would assert that the United States, with its miles of railroad building every year, with its canals and river transportation, with its constantly expanding factory system, with its use of machinery whereby unskilled labor can be more and more utilized, cannot furnish employment to this common labor. In one sense, the newer a country is the more of this unskilled labor it needs, because it has more of the primary work to do — reclaiming the soil and making channels of communication. No one can look upon a map of the United States and see the immense unreclaimed territory, without saying to himself: There is room here for the unskilled labor of the world in reclaiming these deserts, in draining these swamps, in opening up these distant regions. In the face of this generalization I shall only venture the following practical suggestions.

In every country this unskilled labor is of itself the most abundant. It constitutes the mass of the community. In it is found that great number of men who earn their daily bread literally by the sweat of their brow. In it are found all those who

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are not particularly intelligent and who, either from lack of inclination or want of opportunity, have not been trained to any great skill. They are the hewers of wood and the drawers of water, who form the lowest but necessary stratum of every society. I venture to assert, not only that they are present in every community in sufficient number, but that no community has ever found it difficult to produce them. What is difficult to produce is the intelligent and skilled workman, — the man who can take the initiative himself, who not only does work but makes work. Possibly fifty years ago we needed more of this common labor than we could produce ourselves; but we are not in that early civilization now. We have been receiving, too, an immense quantity of this kind of labor during these years. Ever since the great movement of 1846 the immigration has been predominantly of this character. We have in our employ hundreds of thousands of these unskilled laborers and their descendants.

I would suggest, again, that the progress of our civilization renders the demand for this unskilled labor less than it formerly was. We have not built all our railroads, but the country is fairly well opened. The first work of the pioneer has been done and will never have to be done again. We have not brought all our land under cultivation, but we have taken up the better part of it, and there is no reason why we should desire to cultivate that inferior part which will make a less return for the labor. Then again the progress of civilization has enabled us to apply machinery to much of this work. The steam drill, the dredge, the derrick, do the work which was formerly done by men. We accomplish more with a few men than our ancestors did with hundreds. Steam takes the place of human muscle, and it is just as well that it is so. There is no advantage in our growing into the condition of those countries where it does not pay to use machinery because labor is so cheap. Let us seek increased cheapness not by making our labor cheap but by inventions which shall make our labor effective.

Finally, I would suggest that to make this unskilled labor effective there ought to be some guarantee that it shall get to

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the place where it is needed, not merely stay where it happens to land. One would say that the place for this mere muscular labor is on the frontier, where it can do the rough work required. There is absolutely no guarantee for its getting there. The census of 1880 showed an immense preponderance of the foreign-born in the cities, as did the census of Massachusetts for 1885. The truth about these unskilled laborers is, as every one knows, although we cannot prove it by statistics, that they are generally stranded in the large cities where they form an ignorant, often depraved mass, living from hand to mouth, a burden to the poor rate and a social incubus on the community. This unskilled labor is not in its right place, the place where it aids the development of the country, but is in directly the wrong place, adding to the complexities of that already complex problem, the government of large cities.

We turn now to the second question, *viz.:* Does this immigration have any effect on the laboring class of this country in lowering wages by competition and in finally lowering the standard of living? The direct effect on skilled labor would not at first glance appear to be very great. The number of skilled artisans who come to this country is not large. For instance, in 1886, the only classes of which the number of immigrants was more than 1000 were as follows:

Bakers	1209
Blacksmiths	1420
Butchers	1190
Carpenters and joiners	3678
Clerks	3027
Mariners	1803
Masons	1835
Mechanics	1886
Miners	3469
Shoemakers	1681
Tailors	2682
Tobacco manufacturers	1160

It is impossible to say how accurate these statistics are. The British returns are very similar — although it is impossible to compare them with the United States returns of skilled

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artisans coming from England and Ireland, because the classification is different. Among the emigrants from the United Kingdom of British and Irish origin coming to the United States in 1886, the only occupations represented by more than 1000 were as follows:

Bricklayers, masons, plasterers, slaters	1590
Carpenters and joiners	1661
Clerks and agents	1812
Mechanics	5945
Miners and quarrymen	3524

It is evident that such an immigration as this would not cause any severe competition; but it is evident also that it does not account for the number of foreigners in the so-called skilled occupations. The census of 1880 reported the nativity of the persons engaged in manufactures and mechanical and mining industries in the United States as follows:

United States	2,611,325
Ireland	284,175
Germany	368,110
Great Britain	225,730
Scandinavia	44,615
British America	153,935
Other countries	149,292
Total	3,837,112

This would show that out of all the persons engaged in these industries 31.95 per cent are foreign-born.

The strength of this foreign-born element in particular occupations is shown by the following table:

PERCENTAGE OF FOREIGNERS IN EACH OCCUPATION.[1]

Apprentices to trades	9.24
Bakers	56.16
Blacksmiths	27.29
Boot and shoe makers	35.76
Brick and tile makers	31.83
Butchers	38.34
Cabinet makers	41.77

[1] Tenth Census, vol. ii., p. xxxvi.

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Carpenters and joiners	22.96
Carriage and wagon makers	24.55
Cigar makers	44.57
Coopers	32.91
Cotton mill operatives	44.63
Employees in manufacturing (not specified)	28.44
Engineers and firemen	27.18
Fishermen and oystermen	26.67
Gold and silver workers and jewellers	27.09
Harness and saddle makers	25.50
Iron and steel workers	36.33
Leather curriers and tanners, *etc.*	45.74
Lumber men and raftsmen	34.18
Machinists	30.12
Manufacturers	26.27
Marble and stone cutters	44.59
Masons, brick and stone	35.37
Mill and factory operatives	25.79
Millers	15.37
Milliners, dressmakers and seamstresses	16.05
Miners	53.89
Painters and varnishers	23.95
Paper mill operatives	33.20
Plasterers	27.56
Printers, lithographers and stereotypers	17.00
Saw and planing mill operatives	26.71
Tailors and tailoresses	53.52
Tinners and tinware makers	24.14
Tobacco factory operatives	8.69
Woollen mill operatives	39.28

This table is worthy of remark in two respects. It does not seem possible to account for all the foreigners in the ordinary trades like the bakers, blacksmiths, butchers, cabinet makers, carpenters, coopers, stone cutters, masons, plasterers, *etc.*, by the statistics of immigration. These statistics must be defective, or else large numbers must learn these trades after they come here. In respect to other occupations, like cotton-mill operatives, boot and shoe makers, mill operatives, paper-mill operatives and other factory workers it simply means that with the introduction of machinery the great mass of those employed

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in these occupations are really unskilled workmen. It is here that the unskilled and miscellaneous categories in the statistics of immigration find their resting place. This so-called unskilled labor of Europe crowds into the factories of America, driving out labor that was intelligent if not actually skilled. As has so often been said, the Irish drove the New England girls out of the factories of Massachusetts and now the French Canadians are driving out the Irish.

It is here that the American or the Americanized laborer is being subjected to the most strenuous competition. This labor from Europe is not inaptly labeled "miscellaneous" by the bureau of statistics. It comes ready to take up any occupation in which it can earn a living. I do not suppose that the French Canadians when they come into the United States enter themselves as cotton-mill operatives. Probably they have never seen a cotton mill in their lives. They are only potentially cotton-mill operatives, but they fill up the cotton mills all the same. So very likely the Hungarians who are imported to dig coal in the Hocking valley are not miners until they get here. They take the places of the former miners, however, just as if they were *bona fide* miners.[1]

Immigration subjects the laborer of America to a stress of competition such as no laboring class in the world has ever been called upon to endure. All the barriers of locality, distance, custom, nationality and skill have been broken down, and like the challenger of old he is obliged to face every new comer. His labor is literally a commodity, and he is paid the market value of it without any regard to its cost of production or its future supply. No one employs him because he is a man, or a neighbor, or a compatriot, but simply because he will take the least wages. The national pride in him and in his work has ceased. No one buys his goods because they are his product, but only because they are cheap.

It has for a long time been a dogma of economists that labor suffers from its immobility. It is unable to transfer itself

[1] This fallacy has been neatly exposed by Mr. Fred. Perry Powers in the *Quarterly Journal of Economics*, December, 1887.

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readily from one employment to another or from one place to another in order to get higher wages. Cairnes said that competition affected wages only within certain groups. Where an occupation requires skill, it is impossible for others to enter it. It is true that the new generation may be trained into it, if it does not require too long an apprenticeship, and thus competition be introduced, but this process is difficult and very gradual. So Fawcett delighted to point out that agricultural wages were considerably lower in one English county than in another only a few miles distant, owing to the inertia of the English agricultural laborer. Professor J. B. Clark, however, has demonstrated that the barriers between groups are steadily giving way owing to the spread of intelligence and education and the introduction of machinery, which does away with the skill formerly required. The immobility of labor in respect to place is being rapidly removed by the facilities for transportation and by immigration. When a strike occurs on the street railroads of New York city, unskilled labor flocks from all the neighboring cities to get the job. The Chicago, Burlington and Quincy railroad brings men from Pennsylvania, and in a few days it has duplicated its entire force of engineers and firemen. This mobility of labor is greatly assisted by the employers, who go so far as to import laborers from Europe in order to escape the demands of their men. In no country of the world has this barrier of distance and national prejudice been broken down so completely as in the United States. Our workmen are subject to competition from the world. Almost every strike at the present time ends in the defeat of the strikers.

For the laboring class of this country, with its high wages and its high standard of living, it is a misfortune to have these barriers of distance, of acquired skill and of nationality fall away so completely. It renders their position one of great instability and uncertainty. It makes it impossible that they should calculate or provide for their future or that of their children. It destroys local attachments and settled feelings. It renders efforts to better their condition either by organization or by thrift and prudence almost entirely futile. Competition among laborers there will always be; and it is not desirable that they

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should be entire masters of the situation, for absolute power is no safer in their hands than in those of any other class of the community. But with the present mobility of labor described above, the competition from the laborers already in this country will be sufficient to secure us from any monopoly of labor. Immigration is not needed for this purpose. And immigration brings a stress of competition which it is not fair to ask any class of the community to bear when it concerns their daily bread. No country has ever gained by destroying the content, the prosperity, the hopefulness of its laboring class, the mass of the people.

Finally, it can be demonstrated that this competition which comes through immigration has the tendency to lower the standard of living in this country. The reason why Italians, Hungarians and Poles are imported to work on our railroads and in our mines is not the dearth of labor, but the willingness of these immigrants to take less wages than the laborers in this country can accept. But the outcome of such competition will be to reduce our whole laboring class to the standard of life of these new comers. Such competition can in no sense be said to be desirable. It makes commodities cheaper, not by increased industry and ingenuity, but by reducing the civilization of the community. Such a result is not only a wrong to our laboring class but is suicidal to ourselves.

In conclusion, it may be argued, I believe, with considerable show of reason that in our present stage of development we no longer need the immigrant. We do not need him to increase our population, for that is increasing fast enough by natural causes. The money he brings with him is not enough to be worth considering. The economic value of the immigrant himself is considerable, but is not to be measured by any mere calculation of what it cost to bring him up or even by estimating the net value of his future earnings. His value depends on the use we can make of him. It does not appear that we have any present need of this extraneous supply of unskilled labor. But it does appear that its constant influx is bringing upon the laboring class a distressing competition, which threatens finally to lower the standard of living of the whole community.

RICHMOND MAYO SMITH.

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SURPLUS REVENUE.

PUBLIC finance rarely becomes generally attractive until there is danger in the air. The dull burden of routine finance is borne by a few amongst us, and, so long as taxes are levied, collected, and paid in the ordinary way, so long are we content to leave the care of administration to those directly responsible, the paid officials. But there are times when to every citizen the conduct of finance becomes of absorbing interest. In war time, the intimate relation between the soldier and his base of supply divides the popular interest between the camp and the treasury. In peace, we have our crises caused by speculation and bad administration, and the effort is then to straighten out our money matters with all speed, pocketing our losses with what philosophy we may. But there is a financial trouble so insidious in its working, indeed so often tricking itself out in the garb of prosperity, that its uprooting demands a virtue and intelligence wholly different from the fervent patriotism on which we rely in war or the quick self-interest in panic. It is this rare trouble, the trouble of superfluity, which the citizen is now called upon to combat.

To some a surplus is a thing to be proud of; they are at a loss to see why an overflowing treasury is a signal of distress, or how it is possible for a stable, popular government to have too much money. They view a surplus as they would the fabled sands of the Pactolus, and if the gold in the treasury were magic gold we might welcome its overflow and ask no questions; but as the treasury creates no wealth, as every dollar in it is drawn from the pockets of the people, it follows that all excess over and above the just needs of the government is the product of unjust taxation.

The conception of government funds as so much treasure has long since faded away with the conception of government itself as a machine regulating the affairs of the many for the benefit

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of the few. In former times money was drawn to the treasury in the shape of exactions, benevolences, blackmail, foreign spoil. The irregular flow of the stream of tribute made the impounding of its infrequent surplus a matter of necessity, and the strength of the government was largely measured by the size of its hoard. The treasury is no longer the repository of treasure, but the channel for the distribution of the proceeds of taxation. The strong box is open at both ends. The state now relies on a comprehensive system of taxation which will bring to the public needs a yearly revenue; and the ideal revenue is one so elastic that it rises and falls, not coincident with — that is impossible — but in close relation to those needs.

A thing to be desired in any system of taxation is that taxes be levied and expended within districts widening according to the nature of the expenditure; so that each object of appropriation, whether it be the making of a country road or the building of a war-ship, is controlled by the community the nearest in interest to the work, the most competent to secure its proper construction. We in the United States are fortunate in having this admirable division of the labor of taxation established in our constitutional polity. We may and often do err in the expenditure of public moneys; but so long as we stick to the spirit of our constitution we cannot commit the capital error of confounding local with general responsibilities to the weakening of both.

In the administration of finance the revenue should not rise above the expenditure. If substantial equality cannot be maintained, a slight deficit is preferable to a marked excess, since the latter subjects the government to the reproach of an unjust tax gatherer. Yet a surplus is sometimes taken as a sign of government wealth; in truth it is rather a sign of unthrift on the part of the taxpayer. This notion of government wealth is in itself the parent of misconceptions which go to the root of our democratic institutions. Our government possesses no wealth which can be applied to general public wants, and this not alone in the abstract sense that in a democratic state as the government itself is of the people so are its possessions, but in the fact that the

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property to which the government holds title is not a source of net income. The government owns ships, buildings, material, *etc.*, practically inconvertible. It holds the title to a vast domain which as a financial investment has proved a failure, since the cost of its acquisition and development already exceeds the receipts from sales by about $126,000,000. This domain has been at times treated as a source of general revenue; again, as the spoil of corporations; but the true policy is to develop the land for its highest destination, its purchase at low, even nominal prices, by actual settlers who in time build up self-supporting states.

But if the government does not possess available wealth, it commands that most fruitful of all resources, the ability and willingness of a free people to tax themselves. This source of cash and credit represents the real capital of the United States. That the amount of this capital is not ascertained should not blind us to the fact that it is not unlimited; and while the likelihood of its exhaustion or even its serious impairment is too remote to be considered, yet in time of peace there should ever be a resolution to keep the demands on the capital far under the ability and willingness of the taxpayer. It is a foolish policy which continually demands what the capital will bear; and he who complacently boasts of an extra weight of taxation patiently borne, a foolish statesman. The true measure of taxation is not what the people can, but what they ought to bear.

Now every tax must be scrutinized as to its mode of collection, its rate, its subject, and the purpose to which it is applied. A tax satisfactory in all these respects is in no sense a draft on capital; the withdrawal of private moneys, however great, being for the proper maintenance, perhaps the salvation, of the state. When it offends in any of the first three points, its effect ranges from popular annoyance to real oppression. The tax is inexpedient, it is wrongful, but it is not yet wholly useless. When, however, a tax is imposed or retained for a purpose unnecessary or, worse still, made to order, nor ease of collection, nor lowness of rate, nor fitness of subject can save it from condemnation.

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To spend that you may tax is the high crime of finance, a crime in no wise mitigated by popular acquiescence. Suppose a tax is imposed or retained for a purpose which though popular is really unnecessary. The willingness of the people to put their hands in their pockets argues well for the propriety of this tax. But in a few years an emergency occurs, war or its apprehension; the revenues must be speedily heavily increased; the resources of the nation are strained to their uttermost; then it is that the fancy tax rises to plague its sponsors or, worse still, its heirs, and the burdens of war-financiering are weighted by the improvident pledging of a part of the national capital. That the pledge once given would be revoked is possible though not probable; a service pension once established, a subsidy once pledged to the states, would be as firmly fixed in our annual budgets as are the salaries of congressmen. For permanent appropriations create permanent necessities. If government devotes money to new uses, it soon makes them indispensable; if it steps in to the assistance of existing agencies, the old channels of supply dry up or are diverted elsewhere.

II.

An excess of revenue over ordinary expenditure, including interest, has been an occurrence not unusual in the course of our financial administration; and it might surprise those who boldly assert a surplus to be an infallible sign of prosperity to learn that in the earliest years of our government, with a country undeveloped, with the heavy load of the revolutionary debt, our public stocks below par, our finances managed experimentally, the annual budgets showed in several instances large surpluses. In 1817 and in several years up to 1835 surpluses again appeared.

Of the total receipts of the government to 1835, excluding of course loans, nearly ninety per cent was derived from custom duties, the balance being made up from public lands, internal revenue and direct taxes, two-thirds of the sum of these taxes being collected in the years 1814–17.

The first tariff act was protective in name, and its successors increasingly protective in principle; yet with all the growing

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severity of the tariff fight there was never a direct issue involving the maintenance of the protective principle by an enforced expenditure of surplus receipts. Circumstances prevented the attainment of this extreme position. While the receipts in excess of ordinary expenditures were in one sense surpluses, they were not, either at this period or before, condemned to imprisonment in the treasury, but were mainly applied to the reduction of the public debt. Thus they never caused stringency, they were ever applied to a worthy object.

Nor was there absent the notion that a surplus might be beneficially applied to an extended system of internal improvements or even divided among the states. As a matter of fact, internal improvements figured but little in our budgets up to the time of Jackson, and Monroe even denied their constitutionality. The idea of distribution lay dormant for some years, and became lively only when the approaching satisfaction of the public debt became manifest. Schemes for distribution, both with and without a constitutional amendment, grew more and more pronounced, until the payment of the debt in 1835, coinciding with phenomenal receipts from public lands, made possible the so-called distribution of 1837.

Up to this time the surplus over ordinary expenditure had been generally applied to the purchase or call of public stocks; but this surplus found a government without a creditor. There was an unwillingness to alter custom duties and thereby disturb the compromise tariff of 1833, a tariff intended to gradually reduce duties until at the end of eight years the equilibrium between income and outgo should be established. Various plans for the devotion of the money to objects of federal importance were proposed, notably that of Senator Benton, who advocated the cause of coast fortification; but the surplus money possessed a magnetic attraction too strong to be overcome, and the states pounced upon it and carried it off.

Turning to the present surplus, we find that in each of the past twenty years a high but remunerative tariff and a large internal revenue tax have yielded an income out of which, after paying ordinary expenses, interest, and instalments on account

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of the sinking fund, there has each year remained a surplus. These surpluses range in amount from $2,000,000 in 1874 to $145,000,000 in 1882 and aggregate about $1,500,000,000. Until recently the surplus went to the satisfaction of a large part of the interest-bearing debt, acting as an extraordinary adjunct to the sinking fund. But the further application of the surplus to debt reduction seems to be, for the present at least, inexpedient. The national banking system gives us a currency of capital excellence, and the basis of this currency is the government bond. Now to strike down this currency until we obtain one fully as good would be impolitic, even in face of the general principle that the best thing to do with a debt is to pay it. Until a stable and convenient medium of universal currency be established, the country can better afford to pay the debt gradually through the sinking fund than run the risk of a disordered, perhaps discredited, currency. Further, the funding of a large part of the debt at a low rate of interest, its extension to 1907, and the demand for bonds for banking and investment purposes, have operated at once to reduce the annual interest charge and raise the market price of the bonds. Thus the government, to escape a light interest, must purchase its bonds at a heavy premium.

The present surplus differs essentially from those preceding 1835 and that of 1837. The earlier surpluses were mere account-book balances, in excess of ordinary expenditure but not of the real necessities of the government as evinced in its indebtedness, an indebtedness much disorganized and largely due to foreign creditors. The surplus of 1837 was largely the result of a speculative craze for western lands, the government having in the years 1834–6 received purchase money to the amount of $44,000,000, a sum about equalling the proceeds of all previous sales, and making nearly one-half of the net revenue for the years named. The people of that day may perhaps be pardoned for treating this enormous, unforeseen deluge of money as manna, but we can amuse ourselves with no such magic. We know that our surplus is derived from taxes paid out of our own pockets, that in eating it up we simply feed upon ourselves.

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Nor is the present surplus a passing one like that of 1837. With our present revenue system and objects of expenditure, each annual accounting will show an excess of income. To meet the question squarely we must either decrease our income or increase our expenditure.

III.

What is a surplus revenue? Evidently an excess of income over expenditure, which may be wiped out by reduction of revenue or increase of appropriations. If the excess be marked, the withdrawal of money from circulation will soon compel the adoption of makeshifts to avert financial stringency. But any excess over economical constitutional expenditure embodies the worst feature of a surplus, the improvident taking of money from the taxpayer. While the surplus stands on the books, it warns against waste; when it is credited to improper appropriations, the warning is unheeded. Apart from a few pleasantries about the easy handling of a surplus, there is no difference of opinion as to the danger of a surplus in the treasury and the necessity for its speedy disappearance; but in the means to the end the difference is the discord between sound finance and rabid speculation, between good government and bad government. One school of statesmen profess no doubt of the only way to deal with a surplus: Spend it. This counsel has apparently the merit of simplicity, which, together with a seeming spirit of liberality, makes it doubly engaging. In reality it is neither simple nor liberal. It is not simple. It necessitates the enforced creation or adoption of objects of federal aid. It says to the taxpayer: You pay more than the government can use, therefore you must invent such new wants as will enable the government to dispose of your now useless contributions. You must, under penalty of a tight money market, relieve the government from the stigma of miserliness by becoming a spendthrift. It is not liberal. It would almost seem that certain politicians rest under a delusion which transmutes the proceeds of taxation into the gifts of a grateful people, a sort of votive offering reverentially laid upon the altar of patriotism to

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be doled out or lavished, according to the irresponsible will of the state. Now people pay taxes grumblingly, dutifully, cheerfully; but the man is rarely found who pays because he loves to pay. While there is no enforceable contract between the taxpayer and the state, the whole system of finance, nay of social order, is grounded on the assumption that taxation is imposed only for the reasonable, economical wants of the people. Through the influence of this delusion, expenditures are conceived which, under the guise of charity or patriotism, are in fact misappropriations of trust funds. Under a régime where exactions are levied for the benefit of the few, an occasional largess to the many may savor of liberality; the government gives where it might retain. In a popular government of enumerated powers, the spending of money on any principle other than that of reasonable necessity is robbing Peter to pay Paul.

Under the stimulus of this benignant counsel, charitable desires are taking on the semblance of public necessities, real necessities are expanding beyond all recognition. The natural wish for the better education of the negro has developed into the Blair bill. The just pensioning of invalid soldiers has broadened into the service pension scheme.

All extravagant, speculative, and corrupt interests are galvanized into vigorous life through the influence of the surplus. Promoters of all sorts of schemes, beggars for the widening of rivulets, the deepening of rills, hang about the treasury in the hope that the increasing pressure of idle dollars must soon burst out the doors. Nor is the treasury the Mecca of the needy alone. But the other day the Empire state, which in her struggling youth built the Erie canal, was importuned, and by sons of her own, to beg for Federal aid towards its enlargement. Happily the temptation was repulsed by a round majority, and the state still stands erect, her hands in her own pockets.

If the policy of extravagance be adopted, it will be done in cold blood. The indifference with which the corrupt and wasteful management of the reconstruction period was viewed is perhaps explainable by the fact that the popular thought was

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focussed elsewhere. But since the fact of a restored and strengthened Union is now accepted, save by that band of politicians who desire the war to last forever that they may exploit a pinchbeck patriotism and save their occupations, the questions that now press upon us are the passionless practical problems of every-day life. If we are wasteful now it will be through deliberation not preoccupation.

IV.

Some of the schemes which would effect a reduction of the surplus, and for that reason obtain an advocacy outweighing that due to their own attractions, are yet in the air. Several, however, have taken such definite, threatening shape as to warrant close attention. Of the various propositions looking to the enlargement of the pension list, the most popular is the most radical — the service pension scheme.

The true basis of all pension legislation is this: when a man enlists and takes the risks of battle, exposure, and privation, he justly expects to be insured against loss occurring through incapacity resulting from service, or if death should cut him off, that his family should be to some extent compensated. Thus far the aid is in no sense a charity, for it may be said to be an understood, indeed it has been at times an expressed, condition in the contract of enlistment. But when one has passed through service in safety and health, his claim to a pension must be either in the nature of damages for business loss incurred through absence, or simply as extra pay for patriotism. The former claim may be easily disposed of. If the soldier were a poor man the monthly pay, to say nothing of the high bounty paid when men were most needed, rendered his financial position no whit the worse, and in many cases better. If he were rich and it was a question between business or service, he could have sent a substitute. With regard to the latter claim, it should be sufficient to say that under a popular government the cause of national defense should be nearest to the hearts, furthest from the pockets of the citizens; that while it is right to pay for service, it is wrong to pension patriotism. It is true that after the

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lapse of many years, when the presumption is that the survivors of war are incapacitated through age, the nation has shown its gratitude by extending the relief of a pension. In 1818 a pension was granted to each man who had served nine months in the revolutionary army and was in reduced circumstances. It was estimated that about $160,000 would be the annual charge on this account, but the expenditure for the first year was nearly two millions, for the second nearly three. Over twenty-seven thousand claims were presented, representing about ten per cent of the whole number of men enlisted. One-third of the claimants were at once branded as impostors, and a strict requirement of proof of poverty forced out one-third of the remainder, so that but twelve thousand passed muster.

A service pension to the survivors of the war of 1812 was granted in 1878, and those whose familiarity with the laws of mortality had led them to estimate the probable number of claimants were astonished to see seven thousand survivors and twenty-four thousand widows enter their claims. The survivors of the Mexican war were allowed a service pension last year, forty years after service. Why should all precedent be violated in favor of the survivors of the late war by granting a service pension after the lapse of but little more than twenty years? The average age of the soldiers was twenty-six years, which would make that of the survivors about fifty, and it cannot be pretended that at this age the average man is incapable. Moreover, the cost of the scheme will not only wipe out the surplus, but in all probability create a heavy deficit. In 1882 the pension officials estimated that about one million survivors were not on the pension rolls, and in view of the fact that pension estimates are apt to be under the mark, it is safe to count on at least that number at the present time. Now if a pension of eight dollars a month, the amount allowed the survivors of 1812 and the Mexican war, were granted, the annual charge would be about one hundred millions. Since the adoption of the constitution nine hundred millions of dollars, about one-tenth of our net ordinary expenditures, have been credited to pensions. We are not called upon to supplement this generosity by extravagance;

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to tax ourselves for the advancement of ambitious politicians whose object is not so much to pension veterans as voters.

The statistics of illiteracy in the Southern states, as published in the census of 1880, attracted instant and wide-spread attention. The fact that in many of these states nearly one-half of the voters could not read their ballots, a fact to all men of serious concern, so frightened a few that all considerations of law and propriety were overborne and the Blair bill was created. Now this bill, which would effect the distribution of $77,000,000, chiefly among the Southern states, during a period of ten years, is in my judgment one of the most unconstitutional bills that ever passed a House of Congress. I am one of those who hold that the result of the war is the restoration of the old Union, not the creation of a new one; that the new amendments are not vague abstractions, but definite enactments; that when the constitution vindicated its supremacy, the clause relating to "the general welfare" had suffered no change, but stood forth clothed with its old interpretation. As we honor Hamilton as the advocate of the constitution and Marshall as its expounder, so must we honor Joseph Story as its commentator. Is it in order to quote Story, or is he superseded by Blair? Do legislators make their views of constitutional law square simply with their own prejudices or the wishes of their constituents? Story says:

> If the clause "to pay the debts and provide for the common defense and general welfare of the United States" is construed to be an independent and substantive grant of power, it not only renders wholly unimportant and unnecessary the subsequent enumeration of specific powers; but it plainly extends far beyond them, and creates a general authority in Congress to pass all laws, which they may deem for the common defense and general welfare. Under such circumstances, the constitution would practically create an unlimited national government.[1]

Yet the power to render Federal aid to state education could be derived only from that very interpretation of the clause in question which Story so strongly repels. The constitutional objection to the measure would be in itself sufficient to insure

[1] Commentaries, § 906.

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its reprobation, were it not for the new canon of interpretation which consists in reading, not on, but between the lines of the constitution. This canon which substitutes elastic construction for the broad construction of the Federalist, which leaves blanks to be filled up according to the taste and fancy of the interpreter, has reduced the minds of many to a state of uncertainty as to the exact force and effect of the constitution, and left them open only to the argument of expediency.* Waiving then the question of law — Is it politic, is it right to lay Federal taxes for the support of the Southern schools? To narrow the question still further and avoid the selfish position as to the fairness of taxing the richer states to make up the deficiences of the poorer — Does the Blair bill promise good results to the recipients of its bounty? It is impossible to discredit the rule that, as to individuals, so to states, self-help is worth far more than charity. The unaided step forward, taken hardly though it be, gives an earnest of future progress wholly lacking in the quick motion which follows a violent push. The charity of the state can rarely be applied with propriety unless its recipients are too weak to help themselves; and one of the most important, most delicate responsibilities of statesmanship is the determination in a given case whether hopeless distress or remediable misfortunes claim the aid of the state. Under which category comes the illiteracy of the South? There is without doubt a phase of the question so desperate as to admit of no palliative. The adult illiteracy must be accepted as a misfortune beyond the cure of even the wisest benevolence. Now the census of 1880 showed that, out of four million seven hundred and fifteen thousand illiterates of ten years of age and over, nearly three millions had passed the school age, so that the South could be fairly held responsible for the ignorance of seventeen hundred thousand persons. How has the responsibility been met? If indifference, shiftlessness or a begging spirit mark the attitude of

* [The editors find themselves so fully in accord with Mr. Randolph as far as the political and economic sides of his argument are concerned, that they regret the necessity of dissenting from his legal conclusions. They consider the Blair bill an extremely objectionable measure, but they cannot regard it as unconstitutional.]

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the South, then might the plea be put forth for aid for those who cannot, will not help themselves. But the South is not indifferent. The Northern feeling of vague concern, caused by the perusal of tremendous statistics, is replaced at the South by that sober realization with which one views immediate personal perils. This realization has been followed by energetic action. The progress of education is notable, not only in view of the obstacles in the path, but in the actual advance made, for many of the Southern states now report a state of education fairly comparable with that existing in several New England states a quarter of a century ago. For a people handicapped at the start by slavery, later ruined by war, to be less than a generation behind New England communities in their common-school system is proof that powerful self-reliant forces are at work; and we of the North who, in the pride of our wealth and philanthropy, seek to tax ourselves for the supposed good of our neighbor should be mindful lest in striving to raise the ignorant by Act of Congress, we weaken the educated by relieving them of the duty of self-help.

There is another scheme for absorbing the surplus which has distinguished promoters. It is far more liberal than those already considered, and in its simple directness is positively child-like, being entirely dissociated from the moral and charitable aims which temper the education and pension plans. We are to rid ourselves of the surplus by throwing it to the states. A system of taxation kept up for the purpose of paying cash dividends is indeed a startling novelty in finance. It is suggested that after whiskey pays for fortifications it shall pay the taxes on land. There is no hint of the ratio of distribution among the states, whether in proportion to the value of real estate, or the quantity of whiskey consumed. Probably the latter, for then the scheme would not savor of a ruse on the part of a "dry" but thrifty Maine to profit by the thirst of a "wet" New York. It may be objected that this particular proposition is of no more serious import than its deceased relative, the proposal to pay the debt of West Virginia from the Federal treasury; yet the sentiment behind it is sufficiently widespread to deserve attention.

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The idea of the distribution of revenue among the states is founded on honest misconception or sinister determination. Place to stupidity! Where is the constitutional warrant for a distribution law? If an amendment were proposed, what should be its purport? A distribution based on population, as evidenced by representation in Congress, would be evidently a mere excuse for the scattering of money without an intelligent thought as to its destination. Rich states and poor states, well-managed and ill-managed, would alike reap the benefit. If distribution were made according to the needs of the states, it is to be feared that few would yield the palm of misfortune or unthrift, but that, with money going begging, each would follow its interest by hiding its benefits and parading its burdens. If the surplus should be distributed on the basis of state contributions to the Federal treasury, the farce of paying out money as taxes to receive it later as alms would be soon hissed off the stage. From any point of view, a distribution must be unfair or unnecessary.

The experience of 1837 is worth the study of those who ignorantly rely upon it as a precedent. It had all the defects of a distribution save one: it was not a distribution but a deposit, and though practically lost still stands on the books as a sum reclaimable.

Does it seem that the practical importance of the question is exaggerated? Fifty millions of dollars may appear a small sum in an annual distribution when compared with the wealth, population and extent of this country; indeed there are several citizens whose fortunes are supposed to exceed it; yet it is about one-sixth of the ordinary expenditure of the Federal government, and more striking still is its relation to state revenues. If this amount were divided among the states on the basis of congressional representation, it could replace more than two-thirds of the gross sum now raised by state taxation. Nearly one-half of the states would receive as their quotas more than their tax levies now produce. It is obvious that so great and sudden an influx could not fail to have a decided effect upon state finances, upon state governments. It is but too probable

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that the immediate result of a distribution would be in many instances a course of wasteful and corrupt expenditure; but, assuming these evils overcome and the states settled down to the orderly administration of the new revenue — How would they spend it? An economical management would demand the application of the revenue to the reduction of taxation. Now if it were proposed to destroy, in the states, that right of self-taxation which is the high mark of statehood, to dissolve that union of taxation and representation, as important to the well-being of the states as to the Federal government, the scheme would be rightly denounced as revolutionary. Yet if a state should apply the fruits of distribution to reduction of its taxes, the Federal authority would not only replace those taxes but to a great extent the power which imposed them. The state power thus restricted might soon lose its vigor and the economical state become dependent on the general government. Suppose, however, that a state with a just pride in its ability to minister to its own necessities chose to treat the new revenue as extra revenue. The states, if any, to which this course would commend itself, would naturally be those which by virtue of their wealth and character are already able to and do fulfil their duty to the citizens. Their necessities being thus satisfied, the new revenue would be likely to be devoted to luxuries, or at least to objects for which the states, if left to themselves, would not care, or perhaps dare, to lay taxes.

After necessities are provided for, further expenditure is apt to run on the line of public charity, of works undertaken for the sake of giving employment, in a word, on that paternal theory hitherto foreign to our ideas, the theory which substitutes state care for self-reliance.

And when all is done what good has been gained? The surplus is not reduced, it is merely parcelled out. Taxation is lightened but little, if at all, though by a juggler's trick its burden has been unfairly shifted. Worse than all, the states are dependent on the Federal government for necessities for which they themselves should pay, or luxuries to which they should never be tempted. To the valuable good of a general uniformity is sacrificed the priceless good of local responsibility.

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They who, brooding over the evils of high taxation, of illiteracy, of poverty, seek to enact prosperity, are blind to the mission of this Federal government of ours. They who, trembling at the remembrance of a beaten confederacy, think to strengthen a perfect union by centralization, will do well to reflect that if the Union is ever to dissolve, it will be because a national government, having attempted the task of regulating the local affairs of widely distributed communities of diverse character and interests, crumbles under the weight of unfulfilled responsibilities.

But how should they be judged, who, not ignorant, but reckless of consequences, advocate schemes for the spending of public moneys, not for the sale of the objects, but solely for the purpose of keeping up taxes? Yet this thriftless, unpatriotic sentiment is the hotbed of the wasteful schemes which beset us on every side. The logic of protection is pushed to its farthest, boldest, yet weakest position, for it here violates the primary law of taxation. To tax for the sake of extravagant spending was and still is in certain realms a frequent blot on public administration; but for this commonwealth, this time has been reserved the suggestion of that grotesque blunder, to spend for the sake of extravagant taxing. It is no mere political experiment which is thus coolly proposed, one that if weighed and found wanting can be lightly cast aside. It is a new financial principle of dangerous attraction. Once get the idea fixed that a tax can become an institution so bound up with the fortunes of the country that it must be sustained, even at the price of economy, and the effect will outreach even the wide bounds of the present controversy.

I am well aware that there are protectionists who repel the plan of increasing expenditures to save customs duties and substitute a simpler and much less objectionable expedient. Their argument is that the surplus does not represent customs receipts, but internal revenue taxes; that the repeal of the latter would restore equilibrium. This position is straightforward and merits respectful consideration. Now it is true that internal taxes have ever been with us war taxes, while customs have

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been, both in war and peace, the constant contributor to our treasury; but is it sensible to take a sentimental view of a plain business question and, substituting a name for a thing, decry a tax because it has heretofore aided us solely in war? It is true that internal taxes bear solely on home production; it is no less true that import duties bear wholly on home consumption, and that to an extent to be measured, not alone by the receipts from customs, but by the enhanced price paid for protected goods of home manufacture. It is more importantly true that the subjects of our present internal taxes are such as easily bear a great tax affording large returns; it cannot be pretended that the tax paid on imported or the bounty paid on domestic woolens is lighter than that paid on whiskey. We confound all rational difference between luxuries and necessaries, or rather interchange the ideas conveyed by those terms, if we free whiskey and tax clothing. It is unnecessary to consider the whiskey tax with reference to its efficiency as a regulator of traffic and consumption, except to say that the argument that the states and not the Federal government should impose the tax will be pertinent when the states generally show a disposition to that course. Tried by sound rules of finance, the tax on luxuries, whiskey and tobacco, is lighter than the tax on necessities, clothing. But if the logic of finance points to a theoretical conclusion, the logic of circumstances attains a practical one. At the present writing there are not enough votes in Congress to pass a law abolishing the tax on liquors, and there is nothing to indicate a change of sentiment in this or the next Congress. It is possible, however, that the tax on tobacco will be in part repealed. Assuming then the tax on liquor retained, that on tobacco partly repealed, there will still be a heavy surplus which must be credited to customs, and to customs alone.

The sugar duties produced last year over $50,000,000, and the coincidence of this sum with the probable annual surplus, the fact that domestic production supplies but one-eighth of the demand, and the prime necessity of the article itself have given rise to the suggestion that these duties be repealed. As sugar making is practically confined to Louisiana, and as Louisiana is a Demo-

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cratic state, Republican protectionists have hitherto had the delicacy to refrain from a direct proposition for repeal, rightly conjecturing that the abandonment of the principle that "the injury of one is the concern of all" would be here ascribed to partisan motives. True, the suggestion has been sweetened by the vague hint of Federal bounties in lieu of duties, but the most expert prospector in the constitutional field would be driven to his wits' end to discover authority for the Federal government to become the financial backer of a sugar plantation.

In the present state of public opinion it is safe to say that a reduction of revenue by an enhancement of duties is well nigh impossible, though signs are not wanting of an attempt in that direction. A general scaling down of duties would probably increase revenue, so that course is barred. The true way out is so to combine an enlargement of the free list with a reduction of certain duties, that the prime object of revenue reduction will be attained with benefit rather than detriment to industrial interests.

The evident policy of the high protectionists is to so twist the question at issue that it must needs be argued out on the lines of a controversy between protection and free trade. Now theoretical free trade, the total abolition of all revenues from imports, can never be practicable until people choose to pay their public expenses through direct rather than indirect taxation. Nor is practical free trade, as evidenced in its great exemplar the British revenue system, much less foreign to our ideas of public economy.

The leading items of British revenue are (1886–7) as follows:

Excise	$126,534,000
Income tax	80,754,000
Stamp duties	58,046,000
Post office (net)	14,663,000
Customs	98,822,000

The receipts from customs may be thus classified:

Tobacco	$46,069,000
Wines, liquors, *etc.*	26,158,000
Tea and coffee	22,910,000
Fruits	2,323,000

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These articles and the few others taxed are luxuries or at least of voluntary consumption, and the tariff is a true free-trade tariff, one for revenue without incidental protection.

If the attempt were made to reduce our tariff to the free-trade basis, the first stumbling block would be the duty on tea and coffee, and it is unlikely that we would support the taxation of these articles. Our gross revenue from imported liquors, tobacco and fruits is (1887) $20,740,000. The budget for the fiscal year ending June 30, 1889, is thus estimated:

RECEIPTS.		
Customs	$228,000,000	
Internal revenue	120,000,000	
Sales of public lands	10,000,000	
Other sources	25,000,000	
		$383,000,000
EXPENDITURES.		
Including sinking fund and interest		326,530,000
Estimated surplus		$56,469,000

Now if, meanwhile, we cut down our list of dutiable imports to conform to the English system, the estimate would then stand:

Receipts (customs $20,740,000)	$275,740,000
Expenditures, say	326,530,000
Apparent deficit	$150,790,000

How would this deficit be met? To return to our English example — Would an income tax be tolerated in this country at this time? As for stamp duties, petty clogs on private business transactions, such as the execution of deeds, the drawing of notes, bills and the like, would these duties, a nuisance in war time, find favor in peace? Our postal service is not managed for revenue, nor can it be so long as we continue the policy of affording cheap postage in a country so vast, so sparsely populated. The establishment in this country of anything like the English revenue system is barred alike by the traditions of the past, the interests of the present. Whatever be the advantages

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of that system we cannot now afford to pay the price at which they are quoted. Our revenue must be mainly drawn from a tariff which of necessity affords an incidental protection.

There is no issue joined between protection and free trade. Indeed, the controversy in which we are now engaged is, on one side, of a broader scope than a tariff question affords. The issue, to which that between high protection and a tariff for revenue with incidental protection is subordinate, is between protection and economy — dogma against principle. Protection is now to be judged, not merely by its own merits or demerits, but by the vice of its ally, extravagance.

There are those who through ignorance or interest have the hardihood to set up protection as the pillar of the state; and whatever virtue there be in consistent dullness and selfishness, it shall remain in them unassailed; but from that great body of citizens which has heretofore supported the protective principle either because of its establishment, or for more intelligent reasons, this question demands its answer: Is not high protection too dear at the price of economy?

The bold plea for the sanctity of the private profits with which protection blesses its beneficiaries is worthless. Somewhat the same claim, couched in an appeal for vested interests, is valid only so far as fair play demands that such interests should receive reasonable warning of any change, that they may be adapted to new conditions; beyond that, the vested interests of the taxpayer in economical administration must prevail.

The disposition of the large surplus already accumulated is in the hands of the present Congress. Whether its members fail in their duty by frittering it away, compromise in their duty by authorizing its appropriation to occasional bond purchases, or do their duty by devoting it to a cause of national importance, such as the defense of our coasts, their action, at its best or worst, will be but the clever or clumsy handling of a temporary affair.

We have gone beyond the fact of the present surplus and are now concerned with future administration. The admitted evil of a continuing surplus will not cure itself nor will it yield to

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administrative remedies; legislation and legislation alone can master it. This legislation must either prevent a surplus by reducing taxation, largely through the remission and reduction of import duties, or attempt to give it the semblance of legitimate revenue by appropriating it to uses more or less illegitimate. A change in policy, necessary now, will be soon imperative. The question for the citizens to answer is whether the change shall go to the root of things and involve the maintenance of economy, if not the relations of the states to the Federal government; or whether it shall be an alteration in financial policy, an alteration not without some local temporary embarrassments, perhaps, but of general permanent benefit.

CARMAN F. RANDOLPH.

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THE REFORM OF THE FEDERAL SERVICE.

THE Civil Service law has failed to justify the hopes and the claims of its advocates. It has failed, not for lack of a fair trial, for it has been honestly enforced by two successive administrations, but because the means which it provides are wholly inadequate to accomplish the end sought. It has done something toward lessening the evils of the spoils system, but the boundaries of that system are far wider than the limits of the law. It is the purpose of this paper to sketch briefly the rise and growth of patronage in our Federal politics; to describe the efforts which have been made to check this development; to examine, in detail, the effects of the Civil Service law; and, in concluding, to discuss some of the further remedies which have been proposed.

I.

The Fathers of the Republic had a very feeble conception of politics as now understood and practiced. Madison's naïve statement, in the first Congress, that the President would expose himself to impeachment if he removed an official for any other reason than the public good, and Jefferson's denial that any of his few removals were made on political grounds, show how little the advantages of patronage were realized. But some time before Jackson became President, the practical politicians began to recognize the aid it would give them to be able to turn their opponents out of public employment and reward their friends with offices. In 1820 a law was passed giving district attorneys, collectors, surveyors and naval officers of customs, and some other classes of officials, a four-years' term of office. The purpose of this law was to give the President a large number of places to bestow on his friends without the necessity of making removals; and the effect of the law

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was such that the civil service soon began to be a topic of debate, if not a political issue. The Benton report of 1826, the Calhoun report of 1835, the Davis report of 1842 and the Moorehead report of 1844 are all protests, earnestly supported by the most eminent men of the time, against removals and appointments for political reasons. These reports form a library of civil service reform literature. The sincerity of the debaters who discussed these reports may sometimes be questioned, — it is natural that men should feel more keenly the wrongs done by their opponents than those done by themselves, — but the reports and speeches show that the patronage system made its way into our political life gradually and at first slowly, and that it was strenuously and honestly opposed by many of our best public men.[1] Several efforts were made to repeal the law of 1820, but without success. The politicians were getting a firm grip upon the political organization. Instead of yielding anything, they gained more.

The act of 1820 did not touch postmasters. These were appointed by the postmaster-general, for no designated period, and customarily served till they misconducted themselves, died or resigned. Public sentiment did not yet warrant a President's removal of all the postmasters he found in office, in order to give their places to the men who had voted for him in conventions or rendered him other services; and in order to gain their end without removals, the politicians extended the four-years' term of office, by the act of 1836, to postmasters whose salaries

[1] Of the law of 1820, Mr. Jefferson wrote to Mr. Madison: "It saps the constitutional and salutary functions of the President, and introduces a principle of intrigue and corruption, which will soon leaven the mass not only of senators, but of citizens. It is more baneful than the act which failed at the beginning of the government to make all officers irremovable but with the consent of the Senate. This places every four years all appointments under their power, and even obliges them to act on every . . . nomination. It will keep in constant excitement all the hungry cormorants for office; render them, as well as those in place, sycophants to their senators; engage these in eternal intrigue to turn out one and put in another, in cabals to swap work; and make of them what all executive directories become, mere sinks of corruption and faction. It must have been one of the midnight signatures of the President, when he had no time to consider or even to read the law." Jefferson's opinion was based upon eight years in the presidency, and every word of his has been amply justified by events.

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exceeded $1000. As the larger post offices were held by political tenure from this time on, the minor post offices began to be held on the same terms. Of course the result was to make the public interests second to partisan convenience.[1]

Up to the end of the Polk administration, and a dozen years after Gen. Jackson had retired to private life, the accounting officers of the Treasury were still regarded, like judges, as outside of politics. But the politicians soon learned to accuse the party whose places they wanted of stealing, and to base on this charge a demand for the examination of the books — a demand, in other words, for the displacement of all the comptrollers and auditors.

The introduction of the spoils system in the military and naval administration has presented greater difficulties. The American people inherited a deep-seated jealousy of an armed force, and a fear that sometimes seems absurd of the possible

[1] The following is the testimony of Postmaster-General Cave Johnson in his last annual report, 1848: "It may not be inappropriate to remark that those connected with administrative duties in this department could not but have observed that there has been, for some years past, a strong feeling pervading the country that the system had been conducted by an organized corps, extending throughout the Union into every neighborhood, under the control of politicians at the seat of government, wielded with the view of promoting party purposes and party organization rather than the business and social interests it was created to advance; that the offices were bestowed as a reward of partisan services rather than from the merit and qualifications of those selected; and that each presidential contest is to produce a new distribution of the offices, and hence embittered political contests are excited in almost every neighborhood, demoralizing in their tendencies and injuriously affecting the purity of elections. Whilst such apprehensions are entertained by a respectable portion of the community, a want of confidence in the honesty and correctness of the officers, however pure and upright in their conduct, soon shows itself, seriously injuring the business of the offices, and bringing discredit on the system itself. The post office system was designated for business purposes, for the cultivation of the social and friendly feelings among the citizens of the different sections of the Union, and should be in no wise connected with the party politics of the day. This will give that degree of confidence in its agents necessary to render it the most useful to the people. There does not seem any reason why this business and social agent of the people should be more connected with them than the officers of the courts of justice or the accounting officers of the government. If it were believed that the latter officers performed the duties assigned them with a view to the advancement of party purposes, public opinion would soon correct the evil. If the post offices were alike exempt from political influence and party contest, public confidence would be maintained and the best interests of the system promoted."

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use of troops in maintaining a man or clique in power. For this reason the politicians have never dared to treat military appointments as the spoils of their kind of warfare; but they have made free use of the civil attachments of the army and navy, and, if they have their way and are allowed time enough, they will get hold of the colonelcies and the captaincies and the department headquarters, and move from the navy yard to the quarter-deck. Indeed, there has already been a movement in this direction. The law of 1866 required the President to fill vacancies in the corps of army paymasters from persons who had been employed as additional paymasters during the war. The politicians in Congress wanted these very desirable places, and in 1875 they repealed this law. Since then there have been appointed as paymasters in the army: the brother of a senator, the clerk of a senator, the postmaster of the Senate, a state senator who had been useful to a United States senator, the son-in-law of a senator, the son of the chairman of a state central committee (who was allowed a year or two later to make his accounts good and resign), a personal friend of a President, a brother-in-law of a President, a secretary of a President, a disbursing clerk in the War department, the friend of a senator, two friends of another senator, and the son of an eminent bishop. Only two of these gentlemen had any military experience, or had rendered any service to the country prior to receiving these desirable appointments. In the winter of 1882–3 again, the pay corps in the army was a subject of discussion in Congress. The House voted to allow it to die out; the Senate voted to perpetuate it with a reduced number of officers. In consequence of this disagreement, the bill went to that mysterious but potent wheel in our legislative machine, a conference committee. Thirty-six hours before the Congress expired, and when there was no time to consider anything, this conference committee reported, by way of harmonizing the differences between the two Houses, a section repealing the law that required assistant quartermasters and commissaries of subsistence to be selected from the army. This was an absolutely new proposition, not suggested by or connected with anything

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that had been said in the debate on either side in either House. That is the present law. Thus far it has done the politicians little good, but they will find it convenient yet. Hitherto the only civilian appointed under this law was a President's brother-in-law.

The charge that navy yards are used in politics is regularly made at elections; but the administration of the day, which always denies this, is the custodian of the evidence, and naturally enough not much of it gets published. But navy-department correspondence which has been made public shows that the number of men employed in the one department of construction and repair in the Norfolk navy yard in the fall of 1882 was as follows: August 1, 217; September 1, 435; October 1, 1263; November 1, 1248; November 16, 354; December 1, 289. There was a congressional election November 7. I have before me a statement of the number of persons employed under the three large bureaus in all the navy yards during the summer and autumn months of several years, and I am glad to say that this case of the Norfolk navy yard in 1882 is an extreme one. But it shows what has been done and can be done when the secretary of the navy, the commandant of the yard, and the head of a bureau in the yard exert themselves. I am compelled to admit, however, that more use may have been made of navy yards than the tabular statements show, because it has not been unusual to employ several hundred men during the summer and furlough them immediately after their names had been put on the rolls. Then, as the election approached, these men who were on the suspended roll were allowed to draw pay; and thus the law restricting the increase of employés at navy yards within sixty days of an election, the very existence of which law tells its own story, has been evaded.

II.

Many people fail to realize how large is the class of actual and possible political mercenaries created by the spoils system. The report of the Cockrell committee, March 8, 1881, states the

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total number of officers and employés in the several branches of the civil service at 132,072. An estimate of five aspirants on an average for each place is certainly modest enough. But as Mr. Webster said, "Patronage acts not only on those who actually possess office, but on those who expect office, or hope for it," and before an election this includes both political parties. We must therefore double five and reckon ten possible candidates for every place large and small. This makes a million and a third of voters. To these must be added voters in the families of the possible candidates or otherwise intimately interested in their candidacy. Then most of the places of employment under state, county and municipal governments are disposed of in the same way, and all these additions must raise the one and a third to something like two and a half millions, so that about one-fifth of all the voters in the country approach the ballot boxes with a more or less distinctly realized personal pecuniary interest in the result.

The effect of this state of affairs upon our political life is notorious. The evils of the system have been often and fully described. What, now, are the remedies that have been proposed or attempted?

The efforts to reform the civil service have taken two directions:

(1) It has been demanded that office-holders limit their political activity to depositing their ballots.

(2) It has been attempted to remove certain classes of public employés from the domain of patronage.

The first remedy was applied as early as 1841, when Mr. Webster, secretary of state, by direction of President Harrison, issued an order reciting the scandal of political management by the President's appointees, and concluding:

> He therefore directs that information be given to all officers and agents in your department of the public service that partisan interference in popular elections, whether of state officers or officers of this government, and for whomsoever or against whomsoever it may be exercised, or the payment of any contribution or assessment on salaries or official compensation for party or election purposes, will be regarded by him as cause for removal.

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But a fortnight later General Harrison was dead and John Tyler was President. The Moorehead report of 1844 was a protest against Mr. Tyler's use of his patronage to influence elections.

President Hayes entered the White House with strong avowals in favor of a public service freed from political assessments and freed as far as possible from the element of political favoritism. He even promised not to be a candidate for re-election, lest his ambition should get the better of his convictions. In the June after his inauguration he issued a circular letter to his heads of departments in which he said:

> No officer should be required or permitted to take part in the management of political organizations, caucuses, conventions or election campaigns. Their right to vote and to express their views on public questions, either orally or through the press, is not denied, provided it does not interfere with the discharge of their official duties. No assessment for political purposes on officers or subordinates should be allowed.

In spite of this order Mr. Hayes rewarded with appointments every man who was concerned in the delivery of the electoral vote of Louisiana to the Republican party—including, I believe, the man for whom he wrote a note to Secretary Evarts asking that the bearer be given a consulate in a warm climate. There was no change in the party control of the administration and therefore no clean sweep, but appointments and removals went on very much as they had done under previous administrations, and in 1880 the subordinates of the Treasury department were working like beavers to procure the nomination of the secretary of the treasury for the presidency, while the business of extorting campaign funds from government employés by assessing them two per cent of their salaries and giving them to understand that they would be dismissed if they did not contribute, was carried on more openly and unblushingly than ever before under the Republican party, and became so offensive to public sentiment that the politicians have never dared repeat it on anything like the scale of that year. The political bosses even extorted from the Republican candidate for the presidency, who for years had been an opponent of political patron-

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age and assessments, an intimation in his letter of acceptance that he would farm out the federal patronage among the local political bosses and a letter to "my dear Hubbell," which was universally understood, and unquestionably intended to be understood, as meaning that General Garfield knew that political assessments were being levied and approved the means resorted to for their collection.

Obviously, if the great end of politics is to get places for a few men, other men who are not to have places must get something tangible in order to induce them to follow their leaders. This involves money, and one very practical if not lofty way of getting money is to go to the Federal officials and ask them for a certain proportion of their income as a condition of their being left in possession of their places. Every Federal office-holder is expected to pay a rental to the party for the use of his office. The party puts him where he can get a certain sum of money and he must expect to divide with the party. Campaign committees render no accounts of their stewardships and little is known of the amounts of money collected for political purposes, the means employed for their collection, or the uses made of the funds. But, last fall, the disbursing clerk of the Patent office died, and when his accounts were examined it was found that he owed the government between eleven and twelve thousand dollars. There was found in his safe a copy of the department register for 1880. Lying in this book was the following memorandum, in pencil, in the financial clerk's handwriting:

Amount paid by Interior department to Congressional committee for the campaign of 1880	$16,064
By Patent office	4,360
	$11,686

This clerk's shortage to the government was $11,525, so nearly the sum set down above as the share of the Interior department, outside of the Patent office, that the inference has been drawn that he advanced the money for other bureaus than his own and never got it back. This seems highly improbable.

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But in this copy of the register sums of money were written in ink opposite the names of all the male employés in the Patent office, which sums were sometimes more and sometimes less than two per cent of the officer's or clerk's salary, but in most cases were just two per cent. The total of these sums is $4360, the amount which the memorandum indicates that the people in the Patent office contributed to the congressional committee. Twenty-four dollars is a good deal for a clerk with $1200 a year to give away unless it seemed to be very necessary, and a laborer on $500 or $600 would hardly give eight dollars to anything so abstract as the advancement of a political party if it were entirely optional with him. Every clerk knew that the politicians who gave him his employment and could take it away again knew whether he contributed to the campaign fund and, if he did, how much he gave. When General Garfield asked Mr. Hubbell how the departments were doing, the latter might truthfully have replied that they were doing tolerably well.

Undeterred by the failure of previous efforts, perhaps not very earnestly pressed, to curtail the "offensive partisanship," to use the President's phraseology, of Federal office-holders, President Cleveland on the 14th of July, 1886, over his own name, issued a general notice to Federal officials to let the private citizens manage their own politics. Public sentiment would not tolerate any efforts of judges or officers of the army and navy to direct the political movements of the country, and substantially the same reasons would forbid civil officers to make like efforts. In this letter the President said:

> I deem this a proper time to especially warn all subordinates in the several departments, and all office-holders under the general government, against the use of their official positions in attempts to control political movements in their localities.... The influence of Federal officers should not be felt in the manipulation of political primary meetings and nominating conventions. The use by these officials of their positions to compass their selection as delegates to political conventions is indecent and unfair, and proper regard for the proprieties and requirements of official place will also prevent their assuming the active conduct of political campaigns...

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Robert L. Taylor, pension agent at Nashville, was a candidate for nomination as governor of Tennessee. Under date of August 4 he wrote to the commissioner of pensions that he had taken no part in the canvass, but he was confident of being nominated and, if he were, he would like to be present. He would not go if it would be contrary to the President's wishes. The letter was answered by Deputy Commissioner McLean, who said:

> I have the honor to inform you that, in pursuance to the instructions of the honorable, the Secretary of the Interior, it is better for you not to attend the nominating convention. While no doubt exists as to your good faith in your proposed action, your presence at the convention will place you and the administration, if not in a false position, in one subject to misconception.

Mr. Taylor did not attend the convention; he was nominated and then resigned his Federal office and entered into the state campaign.

During the fall a Republican district attorney in Ohio was nominated for a state judgeship and at once resigned. A Democratic district attorney in Wisconsin, Mr. Delaney, was nominated for Congress and sent in his resignation. Action on his resignation was postponed until after the election, in which he was unsuccessful, when it was accepted. This acceptance can hardly be supposed to have had any connection with the order of July 14, for he procured his nomination and carried on his campaign while a Federal official. On October 27 the President directed the suspension from office of District Attorney Benton, of Missouri, Democrat, and District Attorney Stone, of Pennsylvania, Republican, for making campaign speeches. After the election Mr. Benton was restored to his office and Mr. Stone was succeeded by a Democrat. Whatever may be thought of Mr. Benton's restoration, the refusal of the President to reinstate Mr. Stone can not be severely criticized. The President said, with justice, in his letter of November 23 to the attorney-general:

> Mr. Stone and others of like disposition are not to suppose that party lines are so far obliterated that the administration of the govern-

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ment is to be trusted, in places high or low, to those who aggressively and constantly endeavor unfairly to destroy the confidence of the people in the party responsible for such administration.

These are the only cases, I believe, in which the President's warning of July 14 was in any degree followed up by action. *The Philadelphia Record* published a list of thirty-three Federal officials who were actively engaged in the congressional campaign of 1886. In the spring of 1887 Federal officials took an active part in the municipal campaign in Chicago. In fact, the Democratic city convention having failed to agree on a candidate for mayor, the appraiser in the custom house was authorized to select a number of gentlemen to constitute another convention and make a nomination. Later, Federal officials were conspicuous as delegates and political managers in conventions in New York, Pennsylvania, Maryland and Indiana. Early in 1888 a large conference of Democrats was held in Indianapolis, and an auditor of the Treasury and a chief of division in the Pension office left their desks in Washington and went to the conference, according to the press reports, to see that the convention declared itself in favor of a certain aspirant for the vice-presidency and against another aspirant. If the Federal officials who participated in the Pennsylvania convention of 1887 were not there to promote the interests of the President, they were there to promote the interests of the member of congress to whom they felt that they owed their appointments.[1]

The second remedy is the removal, by law, of certain classes of government positions from the field of patronage. A little

[1] *The New York Tribune* of May 16, says that there were present, at the Democratic state convention in New York to select delegates to the St. Louis convention, Deputy Collectors of the Port of New York McClelland and Mason, Special Agent Holahan of the Treasury, Collector Martin of Genesee, Internal Revenue Collector Beach of Syracuse, Internal Revenue Collector Hanlon of Buffalo, Postmaster Hackney of Fort Plain and United States Marshal Bunn of the Northern district of New York. *The Press* of the 17th adds to these Surveyor of the Port Beattie, Deputy Collectors Jones and Davies, Disbursing Officer Hart, Chief Clerk McGee and Superintendent Whalen (all of the New York custom house), and Colonel Lodewick, postal agent.

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more than twenty years ago Mr. Jencks, a representative from Rhode Island, began to agitate a legislative reform of the civil service. His efforts met with an encouraging response. President Grant, in his annual messages of 1871, 1872 and 1873, recommended legislation designed to lessen political influence in appointments to and removals from minor offices. In 1871 Congress authorized the creation of a civil service commission, and a year later a set of rules governing examinations and appointments was promulgated. In 1874 the House of Representatives refused to appropriate any more money to carry on the commission, and the whole enterprise fell to the ground. As soon as members of Congress found that their patronage was diminished by the new methods, they were opposed to them; and President Grant never manifested any reluctance to use the patronage at his disposal for rewarding his personal and political friends.

But the demand for the curtailment of political influence in the matter of appointments and removals had already a certain strength among the people; and in 1876 the Republican and Democratic parties, in their platforms, and the Republican and Democratic candidates for the presidency, in their letters of acceptance, took very strong ground in favor of a system of appointments, at least to the minor offices, that should take into account the fitness of the candidate, or of the incumbent, and should not make party service the sole condition of public employment. Both parties and both candidates were pledged to the country to eliminate partisanship at least from the lower ranks of the public service. In spite of this, the Congresses whose popular branches were elected in 1876 and 1878 made no response; and President Hayes used his power of removal and appointment much as his predecessors had done. In 1879 the popular movement obtained an organization, in the establishment of the Civil Service Reform association; but in the following year there were very scant allusions to the matter, either in the platforms of the parties or the letters of the candidates. Interest in the reform had ebbed, and the politicians felt that they were not obliged to make obeisance to their enemy. The Congress

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which began its existence in 1881 manifested during its first session no decided intention to deal with the subject. The House was Republican for the first time in several years; the Senate had just been recovered by the Republicans after the Democrats had controlled it for two years. But the unseemly scramble for the offices which followed the change of administration, and particularly the wretched squabble between the executive and the New York senators over the New York custom house, convinced a great number of "plain people" that something must be done. The assassination of President Garfield by a disappointed and crazy office-seeker transformed this feeling into an imperative demand. As soon as Congress met again, in December, 1882, Senator Pendleton withdrew his own reform bill, which had been reported during the previous session, and substituted a bill prepared by the Civil Service Reform association of New York. The bill was debated with ardor. The Senate would not even entertain the idea of taking the usual Christmas recess till this important measure had been passed. A good many senators spoke against it, or at least against every vital provision in it, but only five voted against the bill on its passage. In the House the bill was passed off-hand; it was reported January 4, and passed the same afternoon by a vote of 155 to 47. The Republican members of Congress had the less inclination to oppose the reform because, between the first and second sessions of the forty-seventh Congress, a congressional election had taken place, and the Democrats had won the majority of seats in the next House. The devil was sick, and the devil a monk would be.

The law and regulations provide for competitive examinations for clerkships in what is called the "classified service" in the departments at Washington, and in the larger post offices and custom houses of the country, *viz.* those having more than fifty employes. The law and regulations have nothing to do with postmasters or any officials whose appointments are conditional on the approval of the Senate; nor do they apply to chief clerks, or chiefs of division, or private secretaries, or bonded officials, or persons responsible for moneys or securities. A certain margin

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of selection is preserved, the appointing officer having three names to choose from. All appointments are probationary for six months. Appointments are apportioned among the states according to population. There is no limitation upon the power of removal; this may be exercised at any time and with or without cause. The law is not aimed to keep clerks in the service, but to deprive the appointing officer of that motive for their removal which the power of designating their successors would give him. The law stringently forbids political assessments of officials by officials.

The law went into effect six months after its passage and the service was classified, in the main, by rules issued by the President. The existing statutory classification of clerks,[1] ranging from the $1200 to the $1800 grade, was incorporated into these rules, bringing these classes under the operation of the law. On September 23, 1883, Secretary Teller extended the classification to include employés of the Interior department in Washington who received $1000 a year and copyists at $900 and $720. But as soon as a Democratic President was elected, the heads of departments began to extend their systems of classification. On November 19 the secretary of war extended the classification in his department so as to include all civilian employés, irrespective of salary, except of course persons exempted by the law itself, and also except laborers and workmen, among whom messengers and watchmen are included. The Agricultural department is not one of the executive departments in the usual sense of the term, and is not one of the enumerated departments referred to in the Civil Service law. No attention was paid to the law by the commissioner of agriculture till November 24, 1884, when the civil service commissioners received an undated letter from him announcing that he had made a classification of the employés of his office under the law, and on December 16 the commission was notified that the President had accepted the classification. The postal facilities were so inferior that the communication from the secretary of the navy, announcing the extension of the classifi-

[1] Under the laws of 1853 and 1855.

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cation in his department, which was dated November 1, several days before the election, did not reach the commission till November 25. This extension took in the $1000 clerks and the copyists at $900 and $720. On December 6 the secretary of the interior enlarged his classification upwards and downwards so that it took in employés getting $2000 a year or more, not chiefs of division nor specially exempted, and copyists without regard to salary. January 2, 1885, the secretary of the treasury so revised his classification as to include all employés except those specially exempted, presidential appointments, and laborers, messengers and watchmen. February 6, the postmaster-general extended the classification of his department, taking in employés with more than $2000 and running down to employés getting only $720, but excepting laborers, messengers and watchmen, and of course positions exempted by the law.[1]

Apart from the peculiar circumstances of its passage and its extension, — its passage by a Republican Congress after the election of a Democratic House; its extension by a Republican administration after the loss of the presidential election, — apart from these circumstances, the Civil Service law was certainly put to a severe test by the advent of a Democratic administration after twenty-four years of Republican rule. How has it borne the strain? What is the actual condition of the service? What progress, if any, has the reform movement made?

President Cleveland entered office with the general understanding on the part of the public that he was opposed to the patronage system, but there is a wide-spread misapprehension of the extent to which he shared the opinions of the persons who have manifested the most interest in the reform of the civil service. His own words must be read carefully. In his letter of acceptance he said:

> The selection and retention of subordinates in government employment should depend upon their ascertained fitness and the value of their work, and they should neither be expected nor allowed to do *questionable* party service. . . . The unseemly scramble for place under the government, with the consequent importunity which embitters official life

[1] Report of the Civil Service Commission, 1888.

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will cease, and the public departments will not be filled with those who conceive it to be their *first* duty to aid the party to which they owe their places, instead of rendering patient and honest return to the people.[1]

There is no promise here to abstain from political removals and appointments. But in the letter to the Civil Service Reform association, dated December 25, 1884, the President-elect unquestionably went a little farther, though he still reserved for himself much latitude of action. He said:

> There is a class of government positions which are not within the letter of the civil service statute but which are so disconnected with the policy of an administration that the removal therefrom of present incumbents, in my opinion, should not be made *during the terms* for which they were appointed *solely* on partisan grounds and for the purpose of putting in their places those who are in political accord with the appointing power.

In his inaugural address he said:

> The people demand reform in the administration of the government and the application of business principles to public affairs. As a means to this end civil service reform should be in good faith enforced. Our citizens have the right to protection from the *incompetency* of public employés who hold their places *solely* as the reward of partisan service and from the corrupting influence of those who promise, and the vicious methods of those who expect, such rewards; and those who worthily seek public employment have the right to insist that merit and competency shall be recognized, instead of partisan subserviency or the surrender of honest political belief, in the administration of a government pledged to do equal and exact justice to all men.

In his letter of September 11, 1885, accepting the resignation of Commissioner Eaton, he said:

> I believe in civil service reform and its application in the most practicable form attainable, among other reasons because it opens the door for the rich and the poor alike to a participation in public place-holding. And I hope the time is at hand when all our people will see the advantage of a reliance for such an opportunity upon merit and fitness instead of a dependence upon the caprice or selfish interest of those who impudently stand between the people and the machinery of their

[1] Here and in the following passages the italics are mine.

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government. In the one case a reasonable intelligence and the education which is freely furnished or forced upon the young of our land are the credentials to office; in the other the way is found in favor secured by a participation in partisan work often unfitting a person morally, if not mentally and physically, for the responsibilities and duties of public employment. You will agree with me, I think, that the support which has been given to the present administration, in its efforts to preserve and advance this reform, by a party restored to power after an exclusion for many years from participation in the places attached to the public service, confronted with a new system precluding the redistribution of such places in its interest, called upon to surrender advantages which a perverted partisanship had taught the American people belonged to success, and perturbed with the suspicion always raised in such an emergency that their rights in the conduct of this reform had not been scrupulously regarded, should receive due acknowledgement, and should confirm our belief that there is a sentiment among the people better than a desire to hold office, and a patriotic impulse upon which may safely rest the integrity of our institutions and the strength and perpetuity of our government.

On the 26th of March, 1886, in a message transmitting the annual report of the civil service commissioners to Congress, he said:

The exhibit thus made of the operations of the commission and the account thus presented of the results following the execution of the civil service law can not fail to demonstrate its usefulness and strengthen the conviction that this scheme for a reform in the methods of administering the government is no longer an experiment. Wherever this reform has gained a foot-hold it has steadily advanced in the esteem of those charged with public administrative duties, while the people who desire good government have constantly been confirmed in their high estimate of its value and efficiency.

In his speech, May, 1887, at the unveiling of the Garfield statue, the President said:

But while American citizenship stands aghast and affrighted that murder and assassination should lurk in the midst of a free people and strike down the head of their government, a fearless search and the discovery of the origin and hiding place of these hateful and unnatural things should be followed by a solemn resolve to purge forever from our political methods and from the operation of our government the perversions and misconceptions which give birth to passionate and bloody thoughts.

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It is evident from these quotations that the President definitely committed himself to nothing more than the cordial enforcement of the existing Civil Service law, but that his own individual judgment was utterly opposed to the application of the patronage system in fields of the public service not covered by the law. He never promised to conduct his administration without any partisanship and he never pledged himself to make no removals or appointments for political reasons, though his own disgust for the spoils system is plain enough. He and his agents have faithfully enforced the Civil Service law. Not only has the letter of the law been enforced, but within its own rather limited field the spirit of the law has been lived up to. Under President Arthur the commission made no attempt to deal with the question of promotions; but early last summer the present commission, after consultation with the President, perfected a plan of examinations for promotions which was at once put into operation in the War department with the assurance that it would be extended to other departments. The classified service has been extended to take in several minor groups of employés and the 150 special examiners of the Pension office, who from the nature of their employment are peculiarly liable to be used as political agents. The law authorizing the employment of these special examiners seeks to prevent their political misuse by forbidding their assignment to duty in the states from which they were appointed.

The present civil service commissioners are entitled to high praise for the faithfulness with which they have worked, in spite of continual and intentional misrepresentation and persistent ridicule, to rescue the lower grades of government employment from the office-brokers. They have had the cordial and painstaking support of the President. The new rules for the application of the law, promulgated February 3 by the President, who had carefully revised the work of, and often consulted with, the commissioners, and which went into effect March 1, make a great advance in the work of excluding politics from the filling of the lower grades of government positions. The appointing officer's opportunity for making unfair discrimina-

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tion among the eligibles certified to him by the commission is reduced by the rule that only three instead of four names shall be certified at a time. The penalty of dismissal is attached to the violation of those sections of the law which forbid political discriminations in appointments, removals and retentions, and to the collection of political assessments or contributions — offences for which no penalty had previously been provided. The number of places in the service which may be filled without regard to the law is reduced. For example, the old rules provided that deputy collectors could be appointed without competitive examination. In many collection districts it became usual to attach the title of deputy collector to every clerk, examiner or inspector, so that they might be appointed without regard to the Civil Service law. In Port Huron there was but one official in the custom house left subject to the Civil Service law, and in Detroit and Burlington only two or three of the employés were appointed after a competitive examination. This evasion of the law is frustrated by the new rule which provides that only deputy collectors who perform none of the duties of clerks, examiners and inspectors may be appointed without an examination.

The former practice was to require each applicant for examination to file vouchers as to his character. These vouchers, with the examination papers, went to the appointing officer. If the appointing officer found that of the four eligibles certified to him one was vouched for by some of the leading politicians of his own party, and the other three by persons unknown, or known to be members of the opposition party, it was an easy thing for the appointing officer to decide which of the four to select. Of course it is impossible to prevent information regarding the political affiliations of an applicant from reaching the appointing officer; but, to reduce this kind of discrimination to its lowest terms, applicants for places in the postal service are no longer required to furnish vouchers; instead of this, they are required to tell what work they have done and by whom they have been employed for four years last past; and, in the case of applicants for places in the departments in Wash-

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ington, the commission detaches the voucher from the examination paper and retains the former when the latter goes to the appointing officer, if it appears from the vouchers that they were intended to give the appointing officer information as to the politics of the applicant. This is a matter of discretion and usage, and not of regulation.

Besides all this, the new rules will have the immediate effect of stopping all promotions except after examination. They provide for the early establishment of examinations for promotions, in all the departments in Washington and in the custom houses and post offices covered by the law, that shall be compulsory and competitive, except as to old soldiers or members of their families. The rules also provide for the extension of the competitive system to the independent bureaus of the government, such as the civil service commission itself, which has never been under the law; the interstate commerce commission; the fish commission and some others, possibly including the government printing office.

Further the appointing officers very generally are heartily in favor of the present law. I have talked with officials who came to Washington believing the law to be a humbug and who have become its friends. It furnishes the departments with quite as good a class of clerks as the patronage system did. It furnishes them with clerks who know they must give satisfaction or get out, for there is no political influence to save them if they are deficient. The law saves the appointing officers an immense amount of bother from office-seekers and their friends in Congress; importunity to secure clerical positions in the departments has ceased.[1]

As to places outside of the classified service, the President was bound by no law and had volunteered no specific pledges.

[1] In the first session of the forty-ninth Congress, Mr. Pulitzer, chairman of the committee on reform in the civil service, submitted, on a bill to repeal the Civil Service law, an adverse report of which the following is one paragraph: — "The principle of divorcing the subordinate offices of the government from politics and elections, and making the term of office depend not upon party service, but upon merit and good behavior, is a good one. So far as this principle is sustained by the present law, the committee think there should be no change."

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Unquestionably he entered office with the expectation of not making a "clean sweep"; but he encountered the tremendous pressure of the office seekers, and the still greater importunity of the office brokers in Congress, and only a very limited section of the public supported him in his original intentions. In his own affairs a man may dare much; but the President has come to be regarded as a trustee for his political party, and it is too much to expect any President to pursue his own private convictions in regard to public affairs when all his political friends assure him that he would thereby ruin the party which placed him in power for its benefit and not for his individual enjoyment.

The following table shows the number of appointments made by President Cleveland down to February, 1888, in certain classes of offices, and the number of officials in the same classes appointed by previous Presidents and still in office. I have compiled the table from the official registers of departments, supplemented by information from the appointment clerks.

	Appointed since March 4, 1885.	*Previously appointed.*
Foreign ministers	32	1
Secretaries of legation	16	5
Consuls getting over $1000	148	71
Collectors of customs	102	14
Surveyors of customs	32	1
Naval officers of customs	6	0
Appraisers, all grades	36	5
Superintendents of mints and assayers	11	2
Assistant treasurers at sub-treasuries	9	0
Collectors of internal revenue[1]	85	0
Supervising inspectors of steam vessels	9	1
District attorneys[2]	67	3
Marshals[3]	67	3

[1] The number of collectors has since, by the President's order, been considerably reduced; these officers have no term of office.

[2] The terms of two of the three expired in March, 1888.

[3] The terms of the three have expired.

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	Appointed since March 4, 1885.	*Previously appointed.*
Territorial judges[1]	22	8
Territorial governors	9	0
Pension agents	17	1
Surveyors general	16	0
Registers and receivers[2]	204	20
Indian inspectors and special agents	9	1
Indian agents[3]	47	10
Land office inspectors and special agents	59	5

After the compilation of this table and up to May 1, 1888, fifteen registers and receivers were replaced, leaving only seven of the 224 in office March 4, 1885; the last Republican pension agent was replaced; two more marshals were appointed, leaving only one Republican in office; four territorial judges were succeeded by Democrats; and several consuls and collectors of customs were appointed.

Two of the earliest acts of Postmaster-General Vilas were: the issuing of a public notice to railway mail clerks, assuring them that if they were efficient in their business and let Republican politics alone they need not fear dismissal; and a confidential letter to the congressmen from several states, suggesting the most effective manner of getting changes made promptly in a considerable portion of the fourth-class post offices. In this letter he says:

> I .... am impatient to assist our people in securing relief, to which they are justly entitled, from partisan [Republican?] postmasters.... I desire to appoint from three to ten a week in a county in Virginia, amounting to several hundred altogether.... I think that from 15 to 25 per cent of the fourth-class postmasters in Ohio might be removed within the next two months, and great good accomplished thereby, if our people will adhere to a proposed plan.

[1] The terms of four of the eight expired in February and March, 1888.

[2] The 204 are exclusive of appointments to new offices.

[3] Of the ten, four have received re-appointments since March 4, 1885; the 57 are exclusive of three army officers.

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In his last annual report the postmaster-general gave very detailed information regarding the changes made in the postal service. On the 4th of March, 1885, the presidential post offices numbered 2339. Up to June 30 last, five offices had been discontinued, and 185 reduced to the fourth class. At the latter date the old incumbents were in possession of 340 of these offices, — 27 of these having been reappointed by this administration, — and new men were in possession of 1890 of the offices. With the new offices added to the class, the presidential offices numbered, July 1 last, 2336. Of the new appointments 876 were made on the expiration of the previous postmaster's commission; 475 to vacancies caused by resignation; 65 to vacancies caused by death; 509 to vacancies caused by suspensions and removals; 27 postmasters had been reappointed; 28 new appointments had been made in offices that had become presidential; in 170 offices that became presidential the President appointed the postmaster whom the postmaster-general had appointed; and 313 postmasters were still holding commissions from Mr. Cleveland's predecessors.

Fourth-class postmasters are appointed by the postmaster-general and hold during his pleasure. When this administration came in, these officials numbered 49,017. Up to June 30 last, 6599 new offices had been created, 2692 had been discontinued, and 103 (net) had become presidential, leaving the whole number of fourth-class post offices 52,821. In these offices there had been a total of 36,252 appointments, divided as follows: on account of resignations 16,345; deaths, 1243; removals, 12,065; new offices, 6599.

Between March 4, 1887, and January 31, 1888, there were appointed 497 presidential postmasters, nearly half of whom were appointed before June 30 and are included in the statistics of the postmaster-general. Of these 497, 113 were appointed to succeed postmasters removed; 145 to succeed postmasters whose commissions had expired; 83 to succeed postmasters who had more or less voluntarily resigned; 119 were appointed to new offices, and 37 succeeded to vacancies caused by death.

In the railway mail service Postmaster-General Vilas changed

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the general superintendent, the assistant superintendent, and four out of nine division superintendents. One or two of the removed division superintendents were retained in the service in less responsible and remunerative positions. One of the first acts of Postmaster-General Dickinson was to remove one more division superintendent, who was retained in the service as a clerk, a new man from Michigan being appointed division superintendent. In reply to a complaint from a Democratic politician that the postmaster-general had not removed a certain division superintendent, a Democratic official in Washington, not in the Post-office department, wrote what he understood to be the explanation. I have seen the letter, which, though of course not official and, it may be, incorrect, is interesting. My friend told the complainant that the postmaster-general had found it necessary to give the party the largest number of offices that he could and at the same time impede the public service as little as possible. He could not remove all the experienced clerks and all the experienced division superintendents at the same time, and the pressure for the removal of thousands of railway mail clerks was so strong that he had to go slowly in removing the division superintendents until the new clerks had learned their business. The last report of the postmaster-general shows that when this administration came in there were 4356 railway mail clerks, of whom, up to June 30 last, 2085 had "gone," as he puts it. The departure of 383 of them was due to their partisanship, and that of 805 to the maintenance of discipline. A large number of the clerks organized a sort of trade union and prepared to resist removals by a strike. The new appointments between March 4, 1885, and June 30, 1887, were 2850. In 405 cases railway mail clerks were dropped on the recommendation of the division superintendents at the end of the probationary terms; and 152 railway mail clerks, appointed shortly before March 4, 1885, were dropped at the end of their probationary terms without the recommendation of the division superintendents.

On February 11, 1887, Senator Plumb read in the Senate letters from business men and articles from newspapers in

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Kansas complaining bitterly of the inefficiency of the postal service. On the following day he recurred to the subject and read articles from *The Boston Globe* and *The Atlanta Constitution*, both Democratic papers, denouncing in the severest terms the mismanagement of the postal service in New England and the South. Senator Coke, Democrat, said of the postal service in his state:

> The mail service in Texas, especially in the second and third-class offices, is very poor. There has never been a time in the history of the state, since I have known it, when it has been worse, except during the war; and it results from the fact that there is an insufficient force to handle and distribute the mails.

On the 25th of January, 1888, in speaking of the failure of the deficiency bill at the previous session of Congress, Senator Allison said:

> The failure of the bill crippled that [the postal] service greatly. The result was that in the section of the country where I dwell the postal service never was in such condition of inefficiency as it is this day and this hour.

"Everywhere else, too," added Senator Platt of Connecticut. The failure of the deficiency bill in March, 1887, could not have caused the troubles complained of by Messrs. Plumb and Coke in February. Senator Plumb and Representative Perkins of Kansas offered resolutions for an investigation of the complaints, and Senator Plumb reinforced his complaints on the 30th and 31st of January and the 2d of February last.[1]

So far as these complaints are well founded, they are undoubtedly due, in the far West at least, whose complaints were uttered by Senators Manderson and Teller, to the fact

[1] As the resolutions referred specifically to alleged defects in the postal service in Kansas and Nebraska, the reply to Postmaster-General Dickinson was limited to the service in those states. The reply is effective politically, because it shows that in some cases the evils complained of were due to the carelessness of the complainants, and some of the complainants had denounced the service under Republican administrations as vigorously as they denounced it under the present administration. It also presents evidence of the efficiency of the railway mail clerks. But it gives no information as to the causes of complaints from Texas, Georgia, Tennessee, Iowa and Massachusetts.

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that the appropriations for the Post-office department did not keep pace with the growth of the country; but this hardly explains defects in the service in New England and the South; and as some of the complaints come from Democratic sources, they can not all be attributed to political hostility. It is not unfair to infer that the personnel of the service has been changed faster than the good of the service demanded. The Post-office department has had no chief more intelligent and industrious, or more determined that the public good should be considered in the management of his department above all other things, than Mr. Vilas, and there is much in his last annual report that should be read with care by the spoilsmen. For example he says, on pages 48 and 50:

> So signally helpful to the public service is a well-trained, well-disposed, faithful, honest and patriotic postal clerk, who is devoted to his duty and content to confine himself to its excellent performance as his best recommendation, eschewing foreign contentions, which excite needless animosity and invite attack, that no superior who sustains the care of the service fails to recognize the injury to the public interests of his loss. . . . The postal service is prominent among the agencies which the common government can better wield for the common good than any private or corporate hands. Yet its efficiency demands so vast a body of public servants, responsive to the will of the central authority, that no branch is more within the just apprehension of lodging excessive power in the Federal government. . . . Yet no counteracting force can more effectively modify the danger and deliver the agency of government from the chains of that wise fear to a greater public usefulness than such a course of appointment, and such a tenure in appointees, as will render them dependent only on excellence in public service and fidelity to the common interest.

But the enthusiasm with which senators and representatives of the dominant party will tell you that there is not a Republican postmaster left in their district, or that the last Republican railway mail clerk has been dismissed in their part of their state, justifies the fear that the gentlemen through whom the postmaster-general is obliged to act are not always so high-minded as Mr. Vilas, or so ready to make the common good take precedence of a petty local political interest.

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In the departments, as I have already said, the Civil Service law has been enforced and its scope somewhat extended. As to the disposition of places in the departments not covered by the Civil Service law, I can do no better than to quote from an article of mine in *The Chicago Times* of June 11:

The secretary of state has only a small body of clerks under him. Mr. Bayard is very far removed from being a spoilsman; and while circumstances that he could not control have forced a change of every foreign minister but one, and of two-thirds of the consuls whose places amount to anything, in his own department the secretary has made as few changes as possible. He has appointed only two division chiefs, one of whom had the advantage of having been secretary of legation at Berlin. (He succeeded a man who resigned.) The other man, though not in the service previously, had given evidence of special fitness for the place he was appointed to, and he succeeded a man who was retained as his successor's assistant. The War department employs a large number of clerks; but the military tone of the department has long tended toward conservatism in appointments and removals, and for many years the spoils system has never had free range in the department. Secretary Endicott is of all members of this administration the most of a civil service reformer, and no appointments and removals have been made in the department for political reasons. The Post-office and Navy departments and the department of Justice employ comparatively few clerks. Messrs. Vilas, Whitney and Garland have made very few changes in their subordinates, and most of these have been made for causes other than politics.

The two departments of the government that employ large numbers of clerks, and that are not under the influence of a permanent service like that of the army, are the Treasury and the Interior. In the Treasury department there are 79 chief clerks and chiefs of division; of these 54 were changed between March 4, 1885 and June 15, 1886; since then 12 more changes have been made, making in all 66 out of 79. In half a dozen cases the chief appointed by this administration was a promoted clerk; in one case he was a reduced deputy auditor; but in nearly all the cases the chief clerks and chiefs of divisions are new men. Every deputy auditor and deputy comptroller and the deputy commissioner of internal revenue has been charged. In order to make room for the new men, 23 chiefs of division, up to a year ago, were reduced in grade, and four were dismissed. In the Interior department there are 48 chief clerks and chiefs of division. Of these, 21 were changed, up to a year ago, and 14 have been changed since, making 35 out of 48. In his

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own office, Secretary Lamar retained five chiefs of division and changed two. The commissioner of Indian affairs has retained three chiefs of division, and appointed one chief clerk (since appointed deputy commissioner also) and two chiefs of division. In the Patent-office the law clerk and three chiefs of division have been changed, and the chief clerk and two chiefs of division have been retained. (The chief clerk has since been changed.) In the bureau of Education the chief clerk has very recently been changed. The two great bureaus in this department are the General Land office and the Pension office. Commissioner Sparks has changed one of his two law clerks, both his law examiners, every one of his 12 chiefs of division and 79 out of 83 special agents of all kinds. But most of the chiefs of division whom he found in office he has retained as assistant chiefs. General Black has changed his chief clerk and assistant chief clerk, his medical referee and assistant medical referee, retaining the chiefs of the boards of review and re-review and three assistants to the latter. He changed nine and retained 19 principal examiners on the boards of review, appointed two qualified surgeons in the medical division, and 11 out of 18 medical examiners. The principal examiner in the law division was in the office under the previous administration. Every one of the 12 chiefs of division has been changed, but in several cases the old chief has been retained as the assistant of the new chief.

So much is said by defenders of the patronage system about the necessity of having subordinates of the same political party as the chiefs that it is worth while to notice how many of the old officials and employés who might have been removed have been retained. In the Post-office department the third assistant postmaster-general, whose economy and efficiency have been commended in the House of Representatives by a political opponent in charge of the post-office appropriation bill, and the general superintendent of the railway mail service, were retained a couple of years, and the two appointment clerks who have immediate charge of the machinery for changing postmasters have been in their present positions for several years. One of them left the service when this administration came in, but was brought back because he was needed. The secretary of state retained the chief clerk he found in the department till a few months ago, when his place was needed for a gentleman who could hardly be asked to remain at Vienna as secretary of

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legation (after the appointment of a minister) when he had been *chargé d'affaires* there for two years. The secretary of the navy still retains the chief clerk of his predecessors, and he retained the private secretary of his predecessors till a few months ago, and the gentleman is still in the department. The secretary of war has never changed the chief clerk he found in office, and he retained Mr. Lincoln's private secretary till the latter resigned to accept a good offer in private business. The attorney-general has not changed the chief clerk of his department, and several other members of the old staff of the department of justice remain. Secretary Lamar retained for nearly two years the chief clerk he found in the department; and this clerk's subsequent resignation was not due to a desire on the secretary's part to make a change; in fact Secretary Lamar never filled the vacancy. He also retained, in a confidential position near him and with a desk in his own room, the private secretary of several of his predecessors. The late commissioner of the General Land office, though not tinged in the least degree by the ideas of the civil service reformers, refused to allow the discharge of the law clerk whom he found in office and who, he declared, was absolutely indispensable to him. Indeed, Mr. Sparks required assistant chiefs of division, the old Republican officials, to put their initials on letters prepared for his signature before the new chiefs put their initials on.

To go outside the departments, the postmaster and district attorney in Washington, who were appointed by President Arthur, retained their offices till President Cleveland's administration was nearly three years old. These officials would surely have been removed had their political opinions made it impracticable for them to act efficiently under the present administration.

The late Secretary Manning entered the cabinet with the reputation of being a practical politician, with all the practical politician's detestation for any effort to demonetize the commodity in which political debts are commonly paid. For this reason, Mr. Manning's course in the Treasury department is particularly interesting. He retained the solicitor of the inter-

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nal revenue office, the supervising surgeon general of the marine hospital service, the assistant treasurer, the supervising inspector general of steam vessels, and the general superintendent of the life-saving service — all of whom are still in office. He retained one assistant secretary until this official expressed satisfaction in a public way at the defeat of the Democratic party in Ohio and the hope that the party would be defeated in New York. There is some reason to believe that he would have retained the treasurer of the United States and the fifth auditor, had they not, in anticipation of a change of administration, made arrangements to go into private business. He promoted one of the Republican officials he found in the department to the well-paid and responsible post of superintendent of the bureau of engraving and printing, and this appointee still holds his place. When he removed the chief of the division of customs he promoted the assistant chief to succeed him. He retained the comptroller of the currency until that officer resigned to go into a New York bank. He retained the commissioner of navigation, the chief of the secret service, the deputy commissioner of internal revenue and three of the six deputy auditors — who have since been dismissed by Mr. Fairchild.

The only available information[1] regarding appointments and removals in the Federal offices outside of Washington is to be found in dispatches to *The New York Times* of September 5, 1887, which are summarized as follows. In many of these offices the Civil Service law does not apply. When there is no explanation coupled with the number of places with which the changes are compared, places exempted by the law itself are meant.

Albany post office, 6 changes out of 9 places; internal revenue office, 11 changes out of 13 places; surveyor of customs office, 5

[1] Senator Hale has not (May 16) reported the results of his committee's investigation of the administration of the Civil Service law. The Senate has adopted the resolutions offered by Senators Hale, Spooner and Manderson calling for detailed information regarding appointments and removals in the New York custom house, the Baltimore custom house and post office, and the Interior department, and for a statement of all certifications made by the Civil Service commission and of appointments, probationary and permanent, made thereunder. The replies have not yet been made.

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changes out of 6 places. Rochester post office, vacancies filled by Democrats, but no removals. Utica post office, the Republican postmaster removed 7 persons and appointed Democrats or Cleveland Republicans after the election, and the Democratic postmaster made 5 changes. Newark post office, 7 clerks and 24 carriers changed. Trenton post office, 6 changes in 30 places. Wilmington (Delaware) post office, 24 changes in 30 places. Baltimore custom house, 40 out of 48; surveyor of customs office, all; inspectors of steam vessels, both; post office, 249 out of 260 (5 of the other 11 are Democrats); internal revenue office, all but 2 or 3 out of 120; sub-treasury, 10 out of 15. New Haven post office, 5 out of 5; custom house, 11 out of 14. Springfield (Massachusetts) post office, 11 out of 14. Hartford post office, 11 out of 24. Worcester post office, 9 out of 41. Newport (Rhode Island) post office, only one removal. Providence custom house, 7 out of 9; post office, no changes. Portland custom house, 23 changes among 50 employés of all kinds; post office, 24 changes in 45 employés of all kinds. Concord (New Hampshire) post office, 7 out of 11. Reading (Pennsylvania) post office, 20 out of 23, and the three are said to have contributed to the Democratic campaign fund. Pittsburg post office, 7 removals in the more important places. Chicago post office, almost a clean sweep of places exempted by the law; custom house, information refused. Springfield (Illinois) post office, 16 out of 20. Detroit custom house, 42 out of 68 employés of all kinds; post office, information refused. Minneapolis post office, 12 out of 39. St. Louis surveyor's office, 20 out of 29; post office, pretty much all of the 50 exempted places; internal revenue office, 40 out of 60. Cleveland custom house, 13 out of 14; post office, 5 out of 21 (the moderation here is partly accounted for by the fact that the Republican postmaster retained his office a good while after the present administration came in and after the election had changed most of the 21 himself and was changing the carriers when he was succeeded); internal revenue office, 21 out of 22; steamboat inspectors, both; 3 pension examiners, all. Columbus (Ohio) post office, 44 out of 47. Cincinnati post office, 11 out of 28. Indianapolis post office, 46 out of 69 (including all classes of employés; no place not covered by the law was left untouched). Omaha post office, 11 out of 49. Milwaukee custom house, 13 out of 14; post office, 18 out of 26; internal revenue office, 18 out of 24. Madison post office, 9 out of 12. Philadelphia post office, 23 out of 31, besides 24 out of 28 changes at sub-stations and 14 new offices. Harrisburg post office, 24 out of 26. Erie post office, 10 out of 18. Boston post office, 10 out of 33. Des Moines post office, 8 changes inside the office, and 20 out of 23 carriers changed. During the first eleven months of 1887 there were in the New York custom house 10

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deaths, 50 resignations, 133 removals and 292 appointments. *The New York Sun* says: "Most if not all the new appointees are Democrats. Some of the resignations were forced." There is abundant evidence, however, that Collector Magone kept well within the law. Another item in *The Sun* informs us that "Postmaster Johnson of Patterson, when appointed found every attaché a Republican. He has replaced all but two with good Democrats, and the two remaining Republicans have been notified that they will be laid off on February 1." The Democratic state convention of Massachusetts in 1887 complained that this administration had changed only 17 per cent of the citizens of Massachusetts in Federal employment; but in this calculation all the clerks in the classified service were included.

III.

The Civil Service law, it is clear, does not go very far towards eliminating the virus of the spoils system from our politics, since it effects only about ten per cent of the officers of the government; but not much more can be accomplished by statute. The law might, however, include chiefs of division and possibly chief clerks.

Whether division chiefs ought to be changed by each administration is a serious question. The affirmative is taken by some men who combine experience in the departments with friendship for the law as applied at present. Such opinions are entitled to great weight; but they were not shared by the late secretary of the interior, or applied in his personal office; nor have they been adopted in the Indian office, though fifty-one out of fifty-nine Indian agents and nine out of ten inspectors and special Indian agents were changed in two years. But in the Pension and General Land offices every chief clerk and chief of division was changed. In the Treasury department sixty-six out of seventy-nine chief clerks and chiefs of division were changed in two years; but the comptroller of the currency, the treasurer and the commissioner of internal revenue have not found it necessary that all their chiefs of division should be of their party. The chief of division receives the letters sent to the bureau that pertain to his division, directs clerks what replies to write, reads the letters, puts his initials on them and sends

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them to the commissioner, who, seeing that they bear the initials of the chief of division, signs them without reading; he could not possibly read half the papers he has to sign. But the common representation of the chief of division as a man of deep political schemes who, if he gets a chance, will injure the administration whose party label he does not bear, is absurd. A division chief is an inoffensive citizen, trying to support a family and save a little money on a salary of from $1800 to $2500 a year, and anxious to keep his place. He knows he can be discharged at any time, with or without reason. He has abundant opportunities to confer with the commissioner, and he will take good care to find out what sort of policy the commissioner wants to pursue. He is not going to put his neck in a noose for nothing. That the commissioner and his chiefs of division and chief clerk and private secretary should be in accord is eminently desirable; but their being of the same party does not accomplish this, nor does their adherence to different parties prevent it. The subordinates in a public office, like those in a business house, have no policy except to do what the head of the concern wants.

One result of the inclusion of classified clerks under the law of 1883 and the exclusion of chiefs of division is that the chiefs of division are ceasing to be persons of departmental experience, promoted for efficiency from the grade of fourth-class clerks, and are becoming a body of professional politicians. The head of the department saves the experience of the former chief of division by making him, in many cases, an assistant to the new man, and in at least one large bureau requires the assistant as well as the division chief to initial letters prepared in the division for the commissioner's signature; but as the lower grades have to be filled under the law, the places of chiefs of division have to be saved for political workers, and the room of the chief is the headquarters for people of his party from his section of the country. Precisely because the politicians can not fill the ordinary clerkships at their own will, they are under a very strong temptation to make the most of the excepted places. I know of the son of a governor and ex-senator who

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was appointed a chief of division in the Interior department and at once assigned to the work of a low grade clerk in another branch of the office. Probably a twelve or fourteen hundred dollar clerkship would have been given him but for the Civil Service law. I know of another equally interesting case. The position of chief of division, after the present administration came in, was sought by a man who had been in the department several years, though unquestionably a Democrat, and who was an efficient clerk. From his own party he thought he should have little difficulty in getting his promotion. But the assistant secretary explained the matter to him thus: "We can appoint a man from outside to this place of chief of division; but if we promote you to that place we cannot fill your place; that will have to be filled under the Civil Service law. I don't think you are likely to get your promotion." He hasn't got it yet.

Of course attorneys and marshals and collectors and postmasters cannot be selected by means of competitive examinations. If an appointment is to be made, the President should have an unrestricted right of selection. The reformers do not wish to narrow the President's choice, but to prevent removals or enforced resignations when the public service is not to be bettered thereby and the place is desired only as a present for a personal or party friend.

If not much more can be done by law, is there any cure for the spoils system? The only remedy entirely adequate to deal with the disease is the education of public sentiment to the point where the use of public offices for private and party purposes will provoke a revolt at the polls. Patronage would be dropped quickly enough if its use made a man unpopular enough to affect his political career.

But there is one other remedy of great importance which has been prescribed by two such eminent political practitioners that I am glad to present it as the conclusion of this article. Patronage flows from the President. The pressure from the outside, brought to bear by office-seekers and their political friends, is more than an ordinary human being should be expected to resist unless sustained by a strong public sentiment. When this outside pressure is reinforced by a pressure from within,

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by that ambition without which a man would be unworthy of a high public office, resistance is morally impossible. Every President has the power to abstain from making partisan removals and appointments, but he might say, like the Roman citizen in Coriolanus: "We have the power in ourselves to do it, but it is a power that we have no power to do." The remedy I refer to consists in removing from the President the internal pressure, by making it impossible for him to advance his own interests by a use of patronage. In his letter accepting the Democratic nomination for the presidency in 1876, Mr. Samuel J. Tilden said:

> The other evil is the organization of the official class into a body of political mercenaries governing the caucuses and dictating the nominations of their own party, and attempting to carry the elections of the people by undue influence and by immense corruption funds systematically collected from the salaries or fees of office-holders. The official class in other countries, sometimes by its own weight, and sometimes in alliance with the army, has been able to rule the unorganized masses, even under universal suffrage. Here it has already grown into a gigantic power, capable of stifling the inspirations of a sound public opinion and of resisting an easy change of administration, until misgovernment becomes intolerable and public spirit has been stung to the pitch of a civic revolution. . . . It might encourage delusive expectations if I withheld here the expression of my conviction that no reform of the civil service in this country will be complete and permanent until its chief magistrate is constitutionally disqualified for re-election, experience having repeatedly exposed the futility of self-imposed restrictions by candidates or incumbents. Through this solemnity only can he be effectually delivered from his greatest temptation to misuse the power and patronage with which the executive is necessarily charged.

In his letter accepting the presidential nomination in 1884, Mr. Cleveland said:

> When we consider the patronage of this great office, the allurements of power, the temptation to retain public places once gained, and more than all, the availability a party finds in an incumbent whom a horde of office-holders, with a zeal born of benefits received and fostered by the hope of favors yet to come, stand ready to aid with money and trained political service, we recognize in the eligibility of the President for re-election a most serious danger to that calm, deliberate and intelligent public action which must characterize a government by the people.

FRED. PERRY POWERS.

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THE STATE AND THE POOR.

I.

THERE is no lack of theories with regard to the nature and justification of public relief; neither is there any lack of works on the various practical problems that come up in connection with the fruitful topic of pauperism. Professor Adams's *Notes on the Literature of Charities* covers alone nearly fifty pages, and does not pretend to be a complete bibliography of the subject.

There seems to be, however, a breach between the theoretical reasons given for the intervention of the state and the practical measures and proposals of positive legislation. It is rare that, as in the case of the French revolution, the law carries out consistently and logically a preconceived theory. In general, legislation has been tentative and experimental. It has dealt with one problem after another as it has arisen, but has not anticipated difficulties. The publicists, on the other hand, have been apt to base their theories either upon abstract principles which have little connection with positive law, or else upon isolated practical considerations of limited application.

Thus a not uncommon reason given for public poor relief is that it is necessary as a means of securing public safety that the state should guarantee the poor against starvation; otherwise it could not consistently prohibit theft. This view is advocated by Mrs. Lowell in her excellent work on *Public Relief and Private Charity*.[1] The difficulty with this justification is that it only covers a limited number of cases. It does not show any reason for giving relief to the aged or to children or to the sick or, in general, to those who have not the physical or the mental vigor to steal. It is open as a theory to another serious

[1] See also Münsterberg, Die deutsche Armengesetzgebung, S. 73.

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objection. Those who advocate it must either assume that the individual has a right to be supported or that he has not. If he has not a right, then he has no right to steal, and the government, in giving him relief in order to prevent him from stealing, virtually bribes him to refrain from committing crime. If, on the other hand, the poor have a right to relief, no more need be said, and to bring up police considerations is to multiply causes without necessity. Another reason for poor relief is that it is necessary to prevent the abuse of private charity. This view is also presented in Mrs. Lowell's book. It can hardly, however, be called a complete theory of the subject, for it still leaves the question unanswered whether, in the absence of such abuses, any public relief should be given; nor does it enlighten us as to whether any relief at all, either by private persons or by the state, is desirable. Professor Cohn, who has carefully examined this subject,[1] after a long review of various theories, finally comes to the conclusion that the only good ground for poor relief lies in the common liability of all mankind to misfortune, and in the slight control that each individual can exercise over his own destiny. He says:

> In this feeling of the fortuitousness of that which one has and the other has not, rests, according to my conviction, the obligation which the state enforces by compulsion — the obligation to care for the human beings who happen to exist and are not able to care for themselves.[2]

This view seems to coincide curiously with the reason which Professor Sumner has given for private benevolence. He says:

> Men, therefore, owe to men, in the chances and perils of this life, aid and sympathy on account of the common participation in human frailty and folly.

But he adds:

> This observation, however, puts aid and sympathy in the field of private and personal relations under the regulation of reason and conscience, and gives no ground for mechanical and impersonal schemes.[3]

[1] Cohn, Arbeit und Armut, published in Schmoller's Jahrbuch for 1881, republished in Volkswirthschaftliche Aufsätze, to which the page numbers in this article refer.

[2] *Ibid.*, S. 404.

[3] Sumner, What Social Classes Owe to Each Other, p. 159.

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This theory has the advantage of not aiming at an artificially precise result. It takes into account the fact that the considerations which enter into practical measures for poor relief are so multifarious that they cannot easily be reduced to any one single and simple point of view; but, on the other hand, it is very vague, and the conclusion does not seem to be borne out by the premises. The elenchus is lacking. It is perfectly true that life is largely made up of accidents. Grant that it is quite as accidental as Professor Cohn makes it out to be; the proof must still be given that this accidental character makes it desirable for the state to intervene and help those that suffer as a result of it. In other words, it is still necessary to show some practical reason for intervention. The fortuitousness of life is, as Professor Sumner points out, a good reason for sympathy; it teaches us not to judge too harshly those who are not as well off as ourselves. But does it supply a sufficient reason for governmental action?

Another view, which was first, I believe, put forth by J. G. Hoffman, asserts that poor relief is right because it simply amounts to a re-payment to the laborer of that which he has failed to receive in the form of wages; that is to say, his necessity comes from the fact that his wages are not large enough to enable him to save. Now either these low wages result in a lowering of the price, and benefit the mass of the consumers, who therefore ought to make up in taxation what they have thus gained; or the deficit comes from faulty institutions, for which, again, the mass of the people are responsible; so that, in either case, the state should make up by general taxation what the laborer has thus lost.[1] This reasoning, though ingenious, is very artificial, and is open to the objection that it at best explains poor relief under particular circumstances and for a limited portion of the community. It does not furnish any criterion either for justifying or for condemning relief given to those who never have earned anything, or to those whose earnings have been sufficient to enable them to save, but who have been improvident.

Finally, there is the theory which rests the duty of the state

[1] Münsterberg, S. 72–74, and Cohn, S. 393.

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to relieve the poor upon the natural right of every man to the means of subsistence. This view has recently received considerable prominence through the writings of Cardinal Manning, but it is really a very old one, and is not confined to the moralists of the Roman Catholic church. Rousseau says:

> Every man has by nature a right to whatever is necessary; but the positive act which makes him the proprietor of any commodity excludes him from all the rest.[1]

And again he says:

> Every man must live. . . . Since of all the aversions that nature gives us the strongest is that of dying, it follows that everything is permitted by her to him who has no other possible means of living.[2]

The same view was expressed by Montesquieu:

> Whatever alms be given to a naked man in the street do not fulfil the the obligation of the state, which owes to all its citizens an assured means of support, — food, proper clothing, and a mode of life which is not detrimental to health.[3]

This view was carried into practical effect at the time of the French revolution. The constitution of the 24th of June, 1793, said:

> Society owes support to its unfortunate citizens, either by giving them work or by securing the means of sustenance to those who are unable to work.

Political speculation sometimes makes strange bed-fellows. We need not, therefore, be surprised to see the ideas of the Encyclopedists reproduced, almost in their own words, by a prince of the Roman Catholic church. Cardinal Manning, in his *Note on Out-Door Relief*, in the *Fortnightly Review* for January, 1888, says:

> The obligation to feed the hungry springs from the natural right of every man to life, and to the food necessary for the sustenance of life. So strict is this natural right that it prevails over all positive laws of property. Necessity has no law, and a starving man has a natural right to

[1] Contrat Social, l. i, ch. ix.
[2] Émile, p. 86.
[3] Esprit des Lois, l. 23, ch. xxix.

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his neighbor's bread. . . . Before the natural right to life all human laws must give way; and this natural right in every man lays upon all men the correlative obligation to sustain the life of man when it is threatened with extinction.

A somewhat similar view of the right of the poor to receive relief, though based upon a peculiarly figurative conception of the teachings of Christianity, is advocated by another Roman Catholic, a member of the Society of Jesus, in the following terms:

> The Saviour transfers his whole claim upon our gratitude to the poor; in them he will be fed, clothed, and rewarded for his unlimited love. Who can dispute the right of a creditor to dispose freely of his promissory notes? The Saviour uses this right for the benefit of the poor, and therefore no one can love the Saviour without at the same time actively loving the poor.[1]

The discussion of natural rights lies outside of the field of this inquiry. It may not be thought captious to remark, however, that any one who makes an assertion of natural rights as the basis for positive legislation must have some definite understanding as to what he means. He may mean the *jus naturale* of the Romans, that is, *quod natura omnia animalia docuit*.[2] In that case, however, he is confronted with the fact that the right of the poor to receive relief has not been recognized by any of the European states until within three centuries, and that even now it is not recognized by all of them, nor by all of the states of our Union. A right which has been so little recognized in positive law can hardly come under the Roman definition.

If, on the other hand, we mean by a natural right one which is so deeply rooted in the nature of man that it ought to be universally recognized, we express a merely subjective opinion on a topic of exceeding vagueness. The question still arises: What is the nature of man? To say, therefore, that a right shall be recognized because in accordance with his nature, will un-

[1] Franz Ehrle, Beiträge zur Geschichte und Reform der Armenpflege, 1881, quoted by Cohn, S. 382.

[2] Digest, 1, 1, 1, § 3.

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doubtedly have great weight with those who hold the same opinion as the author, but it will not be convincing to others.

This muster of different theories, which is by no means complete but yet fairly represents some of the leading and typical views of different schools of thought on the subject, shows how difficult it is to frame an abstract theory of poor relief that shall be of practical value. It, at the same time, sets limits to the scope of this paper. It is not my intention to add another to the list of general theories on the subject. I propose, rather, to endeavor to answer a single inquiry, and to ascertain, if possible, to what extent the care of the poor in a modern state and under modern conditions conduces to the welfare of society as a whole. If I can discover a good utilitarian reason for entrusting the state with this duty, I shall endeavor to test the value of this reason by applying it to the solution of two or three important practical problems of the day. I shall therefore not consider the matter with reference to the fundamental ideas of the state, or with reference to the necessary limits of state authority, or with reference to ethics or sentiment or natural rights. I concede at the very outset that considerations of expediency should always yield to considerations of morals and that they often do yield to considerations of sentiment. I shall not contest either with the moralist or the sentimentalist the chief seat in the synagogue of political action. A modest inquiry into the mere utility of state action cannot, however, be entirely fruitless. For the practical legislator, whatever his views of ethics or the rights of man may be, must always take into account and can never be wholly uninfluenced by the practical aspects of the question.

II.

As Dr. Ely has very well pointed out,[1] it is impossible to approach this question without having some ideal in view. Now the ideal on which I think all schools of thought will agree is

[1] Richard T. Ely, Ph.D., Philanthropy; first published in the Baltimore *Sun* of March 9, 1887.

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a condition of things in which every one will be self-sustaining or at least sustained by those who are bound by family ties to support him; in other words, the ideal of all pauper legislation is to do away with its own necessity. The question therefore arises whether, under a system of *laissez faire*, the natural action of the social forces, as they exist at the present day, tends to bring about this ideal. Does the struggle for existence under modern conditions tend to bring about the survival of the fittest in the moral sense of the word? That the struggle for existence tends to bring about the survival of the fittest in the strictly scientific sense of that phrase (*i.e.* of those who are most fitted to their environment) will be accepted as a truism. The question, therefore, reduces itself to this: Is the environment of modern society fitted to bring about the survival of those who are most fit, from the moral and economic point of view; *i.e.* those who are most likely to become self-supporting, useful citizens? If this environment is not such, then it is a legitimate subject of inquiry to ask whether the state may not, by a conscious effort, so modify it as to bring about the ideal.

The survival of the fittest of course implies the destruction of the unfit. The world, as we know it, is, however, so constituted that (1) the unfit are often not destroyed, and (2) those who are destroyed are not always the unfit. Both of these points can, I think, be proved. The fact is that the struggle for existence in our world is not a struggle for bare existence, but a struggle for a comfortable existence. Those who are worsted in this contest — those who make failures of life, who are lacking in forethought, judgment, abstinence, and industry — are not necessarily forced out of existence by these faults. They are simply forced down to a lower level of existence. They become demoralized, but they do not perish. Those who would, if in a new country and dependent solely upon their own exertions, go to the wall, manage in some way to get along in the nooks and crannies of a densely settled community. Some resort to crime, and therefore become not only unproductive but absolutely destructive. Others invest in a wheezy hand-organ and live on the alms of the soft-hearted. Still others subsist unblushingly on the charity of the churches and benevolent societies.

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There are many ways, therefore, in which a person who is of no earthly use in the world, who does not possess economic qualities, who is not able to contribute towards the general wealth of society enough to maintain his own life, is, nevertheless, able to subsist. This is particularly the case in the large cities, and unfortunately the large cities tend to absorb a greater and greater portion of the population in all parts of the world. In England, for instance, we find that "whereas at the beginning of the century, out of nine inhabitants of England and Wales, one lived in London, the proportion has now risen to one out of seven."[1] Taking England and Wales together, we find that in 1861 the ratio of the urban population to the country population was as 172 to 100; in 1881 the ratio had reached 212 to 100.[2] In our country the growth has even been more rapid. In 1790 the proportion of the urban population to the total was one in thirty-three; in 1880 it was one in four. In France and Germany there is the same tendency. With this increase in the urban population, therefore, there goes an increase in the thousand and one ways by which those who are really not fit to survive manage in some way to exist. In fact, it is probable that this remarkable increase in the city population is due in part to the immigration of those who are unable or unwilling to work for an honest living in the country.

If on the one hand, therefore, the unfit do not always perish, if there is a tendency in modern society to produce an environment which serves to keep them alive, on the other hand it must be noted that those who do perish are not always the unfit. The complications of society give rise to many accidents. We have succeeded in coping with and partially overcoming some of the elemental dangers that formerly threatened life on this globe. The old-fashioned pestilence seems to be practically exorcised by modern sanitary science, and though we still have epidemics, it is not likely that we shall soon again see any such ravages produced by disease as were produced by the black death in the middle ages. Nor are we as subject to the fluctuations of the

[1] See Farrar, Social Problems and Remedies, in the *Fortnightly Review*, March, 1888. [2] *Ibid.*

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seasons as formerly. The inter-communication of different parts of the world puts the danger of a genuine famine further and further off. The failure of a crop in one section of the world may mean great loss to the producers, but rarely starvation. They can generally get food from some other part of the world, provided they can obtain means to pay for it, and such means are generally forthcoming either through public charity or through the use of credit.

To a certain extent, therefore, the progress of the arts has diminished the simple accidents of life. It has, however, on the other hand, introduced entirely new ones. The accidents by which people are maimed or killed on the railroads or in the mines are generally quite independent of any action on the part of the injured. The commercial crises by which whole industries are for a time brought to a standstill are the result of wide-reaching influences, as much beyond the control of the individual laborer as the currents of the ocean and the paths of the storms. There are many cases in which even the exercise of the greatest forethought will not save a person from being put in jeopardy of life through accident or loss of work.

What, however, is the meaning of such an event to society? The productive power of the laborer is the result of the expenditure of wealth. Every able-bodied laborer represents, therefore, so much human capital, and his loss means the loss of that capital. Dr. Engel has made a careful mathematical inquiry into the cost of production of the human being, including all his expenses and the interest upon the outlay. The result of his figures is that a boy of a moderate education, who may be supposed to have attained his full productive capacity at the end of his fifteenth year, has cost 3738 marks, or about $934; a young man of somewhat better education, who has completed his apprenticeship in his twentieth year, has cost 12,137 marks, or $3034; while a young man of higher education, who is not ready for the work of life until his twenty-fifth year, has cost 27,550 marks, or about $6887.[1]

Thus it may be for the interest of society as a whole to put

[1] Engel, Der Werth des Menschen, S. 72.

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forth some effort in order to prevent the loss or life or of health or the deterioration of character due to accidents for which the individual is not responsible. This can generally be done by means of hospitals, or dispensaries in the case of the sick. Whether in the case of the unemployed aid shall be extended by means of direct out-door assistance, or by the institution of public works for the unemployed, or by the establishment of directories indicating where labor is needed, or by gifts of money to aid migration, or by the establishment of compulsory insurance, or pauper colonies, is a question of detail which must be answered according to the circumstances of the different cases. The point to make clear in this place is that, where it is a question of the saving of human capital, it may well be for the advantage of society to expend nearly as much towards saving those human beings who are in danger of thus perishing as has been originally expended in their production. This is true, looking at the matter solely with reference to the economic and directly material effects and not at all with reference to the moral ends to be gained. To the extent, therefore, to which the government is able to counteract these accidents of life, to that extent it aids in producing the survival of the fit.

There is still another consideration which comes in to show that the unimpeded action of society does not tend in all cases towards the improvement of the race. We have seen that in many cases the environment permits the survival of the unfit, while in many others it does not prevent the destruction of the fit. Not only is this true, but to a certain extent our industrial world directly furthers the production of the unfit. There is thus a constant danger that the coming generation will be bred from the lower rather than from the higher types of society. This results from the fact that the very qualities of self-control, forethought, and abstinence which characterize the industrially higher classes lead to later marriages and therefore fewer children on their part, while those who are imprudent and thoughtless, by virtue of that very imprudence, add largely to the numbers of the helpless. A striking illustration of the multiplication of the unfit in a single family was given some years

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ago by Mr. Dugdale, in his history of the *Juke Family*, and statistics show that this tendency is general. As the distinguished Hungarian statistician, Joseph Körösi, says:

> We cannot apodictically maintain that the greater or smaller number of married men is to be regarded as an indication of the greater or smaller prosperity of their respective professions, since the frequency of marriages tends to run parallel, not with wealth, but rather with pauperism.[1]

The same observation was made by the Mansion House committee which enquired into the causes of permanent distress in London in 1885. They say:

> There appear to be grounds for believing that the increase of the population (with or without marriage) is greatest in those classes which have the least means of supporting large families. . . . In the result it would appear that the undue increase of the population is closely connected with extreme destitution.[2]

Mr. White gives some official statistics which bear this out. Taking the ratio of marriages of persons not of full age to the total number of marriages, he finds that in 1884 this percentage was, in the district of St. George, Hanover Square, males, 1.55, females, 10.34; Bethnal Green, males, 14.69, females, 35.79.[3] Corresponding to this are the figures of the annual birth rate, which, for the ten years from 1871 to 1880, were: St. George, Hanover Square, 24.24; Bethnal Green, 41.75.

Significant though less striking are the Massachusetts statistics of paupers and criminals. The figures here quoted are all taken from the census of 1875, the results of that of 1885 not being as yet accessible. It was found in 1875 that the American population furnished one pauper for every 400, while the foreign-born furnished one in every 348. The natives furnished one convict to 453, and the foreign-born one to 252. These figures are somewhat misleading, since the proportion of adults is greater among the foreign population than among the native-born. The data do not furnish the means of making an

[1] Die Hauptstadt Budapest im Jahre 1881, no. iii, p. 158; see also no. ii, p. 187.
[2] Arnold White, Problems of a Great City, p. 60.
[3] *Ibid.*, p. 62.

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exact allowance for this difference. If we compare, however, the number of paupers and convicts with the total number of persons over fifteen years of age, we still find that the American-born furnish one to 142, the foreign-born, one to 132. Thus, on the whole, the foreign-born may be said to make a somewhat heavier drain, in proportion to their numbers, upon the commonwealth, than the native-born population. Yet the native-born mothers are found to have on an average 3.52 children apiece, while the foreign-born have 4.91. Thus, the very element which sends the largest contingent into the jails and workhouses is also most active in recruiting the coming generation.

That the bearing of these facts upon the growth of pauperism is not fanciful is seen from the carefully prepared statistics of the causes of pauperism in the kingdom of Prussia. It appears there that, out of 953,292 cases of public assistance in 1885, there were 11,396 in which the poverty was given as due to too many children — a number greater than the combined numbers of those whose poverty was due to drunkenness and to indolence, the former being placed at 6940 and the latter at 2944.[1]

It would, of course, be unfair to regard the statistics of births alone and not consider the deaths. Undoubtedly the poorer districts and the poorer portions of the population generally show a greater infant mortality than the wealthier. Thus the annual death rate for St. George's, Hanover Square, was, in the ten years 1871–1880, 20.28 per thousand, whereas in Bethnal Green it was 23.87. In neither of these cases are the figures corrected for deaths in public institutions. They are therefore not to be absolutely relied upon. More trustworthy, undoubtedly, are the careful statistics published by Joseph Körösi for the city of Budapest. The record of deaths in that city is accompanied by a record of the economic condition of the family of the deceased, and the population is divided roughly into four classes, according to their presumed degree of wealth. These classes are, of course, not defined with perfect accuracy, but the physicians who make the returns are instructed to be

[1] Statistisches Handbuch fur den preussischen Staat, 1888, S. 367.

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guided by the general style of life and appearance of the persons concerned. The figures are, therefore, more reliable than statistics which simply compare different sections of a town, each of which contains representatives of many different classes of the population. From these figures of Körösi, which cover the six years from 1876 to 1881, it appears that the deaths of children under one year of age in each class constituted the following percentages of the total deaths of that class up to five years:[1]

	Per cent.
First class	48.4
Second class	57.2
Third class	62.3
Fourth class	63.5

The following table shows the average age of the decedents of the several classes:[2]

	Children, from 0 to 5 years.		*Persons over 5 years.*	
	Years.	*Months.*	*Years.*	*Months.*
Rich class	1	4	52	
Middle class	1	2⅓	46	1
The poor	1		41	7

To a certain extent, therefore, this greater fertility of the poorer classes, and presumably, therefore, of the less thrifty classes, is counteracted by a shortening of life and a greater infant mortality. There are two considerations, however, that come in to weaken the effect of this mortality. In the first place, those who suffer are not primarily those who are to blame. The retribution does not follow closely upon the fault. The mortality being mainly in the case of infants, one generation has to pay the penalty that the other has incurred, and the moral effects of it are therefore lost. The fathers eat the sour

[1] Körösi, Die Sterblichkeit der Stadt Budapest in den Jahren 1876 bis 1881, und deren Ursachen, S. 274.

[2] *Ibid.*, S. 168.

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grapes, but the teeth that are set on edge are their children's. Another consideration, and a very important one, is that the great sanitary improvements which are constantly being made in the drainage of our great cities, in the construction of tenement houses, and in the general conditions of life, constantly tend to lower this infant mortality, and thus to check, as it were, the effort of nature to work her own cure. It is devoutly hoped that this statement will not be understood as implying on the part of the author a taste for unhealthy tenements, or a weakness for cholera infantum and diphtheria. But it would be unscientific to allow a sympathy with such improvements to blind us to the plain facts of the case, and these seem to be that these undoubted advances in civilization tend to produce evil as well as good results, unless they are accompanied by an advance in the morale of mankind. Every effort that is being made to remove what Malthus called the "positive checks" to population, without at the same time increasing the preventive checks, must result in an increase of the very classes which are least able to take care of themselves, and render more and more imperative the solution of that exceedingly difficult problem which Mr. Arnold White calls "the sterilization of the unfit."

Thus we see that the struggle for existence in a highly developed industrial society does not infallibly lead to the survival of the fittest, if by that phrase we mean the elements that are morally and economically most useful. In fact, we are, by means of our very improvements, setting forces in operation which tend to multiply the unfit.

This, it should be said, is no more than what we might expect from the analogy of animal and vegetable life. A garden, if left without care, will not produce as perfect flowers as one that is constantly weeded, watered, and pruned; in fact, the weeds are quite likely in a very short time to have it all their own way. In animal life, too, we see that the development of higher forms has not led to the destruction of the lower forms, and that the unintellectual crustaceans still exist in great numbers side by side with the more highly endowed mammals. As Professor Huxley very well says:

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It is an error to imagine that evolution signifies a constant tendency to increased perfection. That process undoubtedly involves a constant readjustment of the organism in adaptation to new conditions; but it depends on the nature of those conditions whether the direction of the modifications affected shall be upward or downward. Retrogressive is as practicable as progressive metamorphosis. . . . The human species, like others, plashed and floundered amid the general stream of evolution, keeping its head above water as it best might, and thinking neither of whence nor whither. The history of civilization, — that is, of society, — on the other hand, is the record of the attempts which the human race has made to escape from this position. The first men who substituted the state of mutual peace for that of mutual war, whatever the motive which impelled them to take that step, created society. But, in establishing peace, they obviously put a limit upon the struggle for existence. Between the members of that society, at any rate, it was not to be pursued *à outrance*. And of all the successive shapes which society has taken, that most nearly approaches perfection in which the war of individual against individual is most strictly limited.[1]

Might it not be better to say that society constantly tends, not to limit the struggle for existence, but rather so to influence the conditions of life that the struggle will lead to the survival of the highest types? In other words, society, if it wishes to improve itself in accordance with a certain ideal, must limit the struggle for existence in favor of those forms of character that it finds useful and wishes to preserve. This means, therefore, that it cannot afford to let the question of pauperism solve itself, but must assume the responsibility of dealing with it actively and intelligently, if it would consult its own highest good.

III.

The best test of the truth of any theory is its applicability to practical questions. In order to apply this test to the theory just developed, I propose to ask whether it will aid us at all in the solution of certain practical questions which are prominent at the present day. Let us, therefore, inquire: (1) What should be, under this view, the scope of the state's action regarding

[1] Huxley, The Struggle for Existence, in the *Nineteenth Century*, February, 1888, pp. 163, 165.

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the poor? (2) Is it for its interest to recognize a legal right to relief on the part of the person aided? (3) What should be its relation to private charity?

(1) The first question can be merely outlined. It is not intended in this place to explain in detail the different methods of relief that the state should use, but merely to show in general terms the outside limits of its activity. If there were any single mode of action which would tend to abolish at once the causes of poverty, the problem would be vastly simplified. Grant Henry George's premises, and his conclusion is irresistible. If the sole cause of poverty lies in our unjust land laws, then a mere fiat of the legislature abolishing those laws will bring about the millennium, and the Anti-Poverty society will have richly earned its title.[1] For those who do not accept Henry George's premises, the problem is very much more complicated and difficult.

It must be evident, however, that the state should, as far as possible, endeavor to strike at the root of pauperism rather than to merely prune its branches. To regard the duty of the government in this matter as fulfilled by merely distributing relief is shortsighted in the extreme. If the chief reason for governmental interference lies in the failure of the struggle for existence to bring about the survival of the fittest in the moral and economical sense, then all measures which do not aim ultimately at this result are but palliatives, not remedies. While, therefore, the state should be exceedingly cautious in applying methods of relief, lest the very means it uses shall aggravate the evil, it should not hesitate to go beyond the simple giving of relief, if it can thoroughly satisfy itself by experiment that such action will tend to diminish the amount of relief needed in the future.

Fortunately we are not left entirely in the dark in this matter, but can get a good deal of light upon it from history. A glance at the past will show us that earlier ages have had much wider and more liberal views of the subject than our present age.

[1] See *The Standard*, especially the discussion of Charity in the numbers of January 7 and 28, 1888.

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We shall also see how comparatively unimportant in the history of the world has been the mere giving of alms on the part of the government. The Mosaic code, to be sure, as well as the Mohammedan, had elaborate provisions with regard to the duty of the state toward the poor and the right of the poor to the care of the state; but neither in Greece nor in Rome nor in the middle ages was there anything like systematic pauper legislation.

Of the republics of Greece, Athens seems to have been the only one which made provision for the relief of the poor, and this was occasioned by the necessity of caring for the veterans of the Peloponnesian war. How little importance the question had may be seen from the way in which Aristotle treats of it in his *Politics:*

> Where there are revenues, the demagogues should not be allowed, after their manner, to distribute the surplus; the poor are always receiving and always wanting more and more, for such help is like water poured into a leaky cask. Yet the true friend of the people should see that they be not too poor, for extreme poverty lowers the character of the democracy; measures also should be taken which will give them lasting prosperity; and as this is equally for the interest of all classes, the proceeds of the public revenues should be accumulated and distributed among them, if possible, in such quantities as may enable them to purchase a little farm, or, at any rate, to make a beginning in trade and husbandry. And if this benevolence cannot be extended to all, money should be distributed in turn according to tribes or other divisions, and in the meantime the rich should pay the fee for the attendance of the poor at the necessary assemblies; and should in turn, be excused from useless public services. By administering the state in this spirit, the Carthaginians retain the affections of the people; their policy is from time to time to send some of them into their dependent towns, where they grow rich. . . . The example of the people of Tarentum is also well deserving of imitation, for, by sharing the use of their own property with the poor, they gain their good-will.[1]

This passage is more remarkable for what it omits than for what it says. It shows that the problem of caring for the dependent classes — for vagabonds and chronic paupers — had

[1] Jowett's translation, book vi, chapter v, §§ 7–10.

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not arisen in Aristotle's time, and that with him the only consideration was the political effect of poverty, not the moral effect of destitution.

The idea of poor relief was equally foreign to the Roman habit of thought. The gifts that were given by the rich families to the plebs were bribes for political purposes, not alms distributed from charitable motives. Even the sale of grain below the market price, and its free distribution, were regarded as a right of the citizen, not of the poor; and though Mommsen states that the reduction of the numbers of those who were entitled to this dole from 320,000 to 150,000 by Julius Cæsar really represented the first introduction of the idea of poor relief[1], it should be remembered that even then the charges of this gift were met by the tribute of the provinces, not by the taxation of the citizens of Rome, and that though actually the recipients of this bounty were probably the poorer citizens, they received it as citizens and not as paupers.

The introduction of Christianity into Europe greatly stimulated private charity. The church, however, became the almoner of Europe, not the state. Legislation such as that of Charlemagne, who ordered the churches and monasteries to use their tithes in the interest of public charity, and also required the lords to see that none of their vassals or dependents suffered want, was spasmodic. The laws confined themselves mainly to repressing beggary by main force, and it was not until the fifteenth century that methods were devised for the relief of the poor. The earliest ordinance of this kind was probably that enacted in 1437 for the city of Frankfort-on-the-Main, but the most noted was the ordinance of 1522 of Nuremberg. This ordinance entrusted the management of the poor to a commission appointed by the city council. The city was districted and an overseer appointed for each district who was to investigate, in connection with the clergymen, the circumstances of those seeking relief. The sick were to have medicine given them, children were to be put out at service, and those who could work were to have work found for them as soon as possible.

[1] Mommsen, Römische Geschichte, III, 506.

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We have thus a complete system of city poor relief which served as a type for and was soon followed by other cities in Germany and the Netherlands. The significant part of this legislation, however, is that it prohibited begging altogether, interdicted migration from city to city in order to check the tramp evil, and that laws were made restricting marriage to those capable of supporting a family, in order to prevent the growth of a pauper class.[1] The prohibition of begging, and the regulation of marriage shows that even at this early day legislators were intent on preventing the causes of pauperism quite as much as upon relieving distress.

Still more striking is the history of English legislation. England began, as Germany did, by repressing vagabonds with a strong hand. Thus the act of the 12th of Richard II (1388) provided that sturdy vagabonds and valiant beggars were to be publicly whipped for the first offence; for the second they were to have their ears cropped; for the third they were to be hung. This same law provided in a general way for the relief of those unable to work by putting the duty of caring for them upon the parish in which they happened to be, or in case it was unable to provide for them, by requiring that they should be sent to their birth-place. It was not, however, until the sixteenth century that the question was seriously taken in hand. Henry VIII provided by the law of the 22d of his reign (1531) that able-bodied beggars should be punished and that the infirm should receive letters of license entitling them to beg within certain limits. This, however, proved illusory, and stronger measures had to be adopted. The act of the 27th of Henry VIII (1535–6) prohibited private alms-giving altogether and punished it with a fine equal to ten times the amount of the gift. At the same time, however, it provided for a systematic relief in the place of individual alms and required the clergy to gather contributions of the "good Christian people within the parish" and to distribute the proceeds among the poor.

The period from 1536 to 1601 was a period of transition, in which the principles of the great poor law of Elizabeth were

[1] See Löning, in Schönberg's Politische Oekonomie, 2. Ausg., Bd. III, S. 862 ff.

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gradually and tentatively established. The law of 1536 had provided simply for voluntary gifts. The act of 1552 provided that collectors of alms should be appointed to make these collections and that the inhabitants of the parish should be "gently exhorted and admonished to contribute according to their means." In case they refused, the bishop was to be notified and to use his influence with them. The law of 1563 went a step further and provided that those who still obstinately refused to contribute should be brought before the justices of the peace, and that if they were unable "to move and persuade" the delinquent, they should tax him at what they thought proper. The law of 1572 provided for such a taxation without the intervention of the bishop, and finally the law of the 43d of Elizabeth (1601) introduced a regular poor tax. Private alms-giving, which had been prohibited by Henry VIII, was again allowed by the acts of 1555 and 1563, which permitted begging licenses in parishes that were overburdened, but these were entirely prohibited by the law of 1572.

Thus we see that, while gradually introducing the duty of the parish to provide for its poor, English legislation did not forget to check the causes of pauperism by prohibiting alms-giving: In fact, the suppression of the minor monasteries in 1536 and of the greater ones in 1539 may not unjustly be regarded as a part of the pauper legislation of Henry VIII. Adam Smith seems to give countenance to the idea that it was the suppression of the monasteries which made the poor law of Elizabeth necessary by destroying one of the principal means of providing for the poor.[1] There are good reasons for thinking, however, that the views of Hallam and Froude are more just, and that the monasteries were themselves the cause of rather than the cure for pauperism.[2] The considerations that support this view are that the question of pauperism was dealt with by legislation long before the monasteries were abolished; that private alms were prohibited at the same time at which the

[1] Wealth of Nations, book i, ch. x.

[2] Froude, History of England, vol. ., p. 77; Hallam, Constitutional History, vol. i, p. 91.

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church funds were confiscated; and that pauper legislation had to be introduced at nearly the same time in Germany and in France, where no such confiscations of ecclesiastical endowments took place.

It is remarkable that, in the very year in which the minor monasteries were abolished in England, Francis I found it necessary to introduce a poor law in France, providing, in the same way in which Henry VIII provided, for the collection of gifts by the clergy and for their distribution among the poor of the parish.[1] But so great were the abuses of ecclesiastical charity that the same king was obliged in 1546 to secularize the hospitals and put their funds under the control of the civil authorities, having found by the failure of the edicts of 1543 and 1545 that a reform was impossible as long as they remained under clerical management.[2] The first poor tax was introduced by Francis I for the city of Paris in 1544, fifty-seven years before the poor rate of Elizabeth. The fact that the legislation of France, in which the monasteries were preserved, was similar to and contemporaneous with that of England, in which they were destroyed, indicates that their destruction was not the cause of the introduction of the English poor law.

This historical sketch shows that the causes of pauperism were not left out of sight by the legislators of the sixteenth century, and that a large part of their legislation consisted in an endeavor to check those causes. We have, therefore, an historical argument as well as a theoretical one in favor of extending the action of the state beyond the mere giving of relief. There is great danger that pauper legislation will become too mechanical and will either endeavor to help all who may be in want, regardless of the cause of their want, or will draw the line so fast that many worthy persons will be left unprovided for. The great duty of the government is discrimination, and it may be quite as necessary to refuse relief where the ultimate effects of it are sure to be bad as to give it where

[1] Monnier, Histoire de l'assistance dans les temps anciens et modernes, p. 307.
[2] Reitzenstein, Armengesetzgebung Frankreichs, S. 12–13; Monnier, pp. 323–30.

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they are not bad. "I would have the state," says Mr. Mills, "provide starving idleness with a coffin, but nothing more." [1]

It may not be unnecessary to emphasize again that in thus endeavoring to secure the survival of the fittest we mean the industrially and morally fit, not simply the physically fit. As Mrs. Lowell has well said: "The fatal mistake in charity, as indeed in everything else, is when physical and temporary ends are sought in place of moral and eternal ones." [2] The survival of the fittest does not, therefore, mean the application of euthanasia to all who are physically unable to work. In the case of a community on the verge of starvation or of a beleaguered city, it might be necessary for the preservation of the whole to suffer the destruction of those who are physically useless, and the practice of the early Swedes, who solemnly knocked their old people on the head with a club in order to get rid of them, may have been dictated not solely by barbarity but by considerations of public utility.[3] In a modern community we are, fortunately, not brought to this pass. There is sustenance enough for all, provided it be rightly distributed. There can be no harm, therefore, in the exercise of humanity towards the young as well as towards the aged, the idiots, the insane, and all classes of persons whose misfortunes are not the result of their own actions, and in the case of whom such relief cannot be attended with any bad moral effects. Humanity is in itself a social, not merely a personal virtue, and is to be encouraged, not discouraged, as long as it does not take the form of a weak sentimentalism which would prevent responsible persons from reaping as they have sown.

(2) Another question has recently come into prominence through the articles of Cardinal Manning. Is it in accordance with the welfare of the state to recognize a right on the part of the poor to relief? To prevent all misunderstanding, I repeat that I do not discuss the ethics of this question, but merely its utility. I do not ask whether man has by nature

[1] H. B. Mills, Poverty and the State, p. 8.
[2] Address before the Woman's Christian Conference, in New York, 1887.
[3] See Tylor, Anthropology, p. 411.

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a right to support, or whether he ought to have such a right as a matter of morals, but merely whether it is in accordance with the interests of society that the state should recognize such a right?

In speaking of the right to relief, I do not necessarily imply a right in the strict jural sense of the word, *i.e.* a right which can be enforced by a civil suit. There are comparatively few cases in which such a right is recognized, though it has been in Mecklenburg,[1] and seems to be, according to the statutes, in Connecticut.[2] But where, as in England, the law holds the relieving officers to such a strict accountability that the poor person can easily set in operation the administrative machinery necessary to secure him relief, he may be said to have, for all practical purposes, a right which is as good as a right of action and which will have the same effect upon his mind. Such cases as Clark *vs.* Joslin and Regina *vs.* Curtis show that relieving officers who neglect or refuse aid do so at their peril.[3]

If the view that has been advanced in the preceding pages regarding the utility of poor relief is sound, it would seem to follow *a priori* that the recognition of a right to relief must be harmful. If the final aim of the poor laws is to make all classes of the population self-supporting, the recognition of a right to be supported, regardless of one's own actions, or of the right to have work, regardless of one's own efforts to seek it, must undermine that independence which is our aim and destroy one of the strongest incentives to self-support.

It is not, however, necessary to content ourselves with *a priori* reasoning. There are some remarkable historical examples which show very plainly the results of such a policy. It was the recognition of such a right and the prevalence of ideas closely connected with it which led to the celebrated Gilbert act of 1782 in England, and produced the shocking abuses in the administration of the English poor law at the end of the last century. It was this principle more than any other one

[1] See Münsterberg, S. 273.
[2] Revised Statutes, title 15, ch. ii, § 5.
[3] See Aschrott, p. 153; and Glenn, Poor Law Orders, pp. 234 and 73.

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thing which raised the poor rates in England from £2,000,000 to £7,800,000 in the thirty-four years from 1783 to 1817. It was this right which increased pauperism, lowered wages, and threatened to impoverish the whole nation; and in spite of the vigorous reform of 1834 the English poor-law administration is still hampered and its efficacy checked by the recognition of this right to relief.

Equally remarkable was the experience of France during the great Revolution. In accordance with the principle that "society owes support to its unfortunate citizens," as expressed in the constitution of June 24, 1793, the revolutionary government entirely overturned the system of poor relief of the old régime. It established as early as 1789 national workshops in order to give work to all who wanted it. It confiscated the property of the religious orders and hospitals. It centralized the entire poor relief in the hands of the national government, and even canonized poverty by instituting a national holiday in honor of the poor and providing that lists of the paupers and of the gifts that they received should be read in public on that occasion. The effect of establishing these national workhouses was that as early as 1791 there were no less than 31,000 persons employed in them in Paris alone, and that that city spent over 15,000,000 francs for their support, in addition to enormous sums voted by the legislature.

This system wrought its own cure, and the law of November 27, 1796, introduced the *bureaux de bienfaisance*, to which the care of the poor has been entrusted ever since. These bureaus are independent corporations, having the right to hold property and receive legacies, and depend for their income very largely upon private gifts and the revenue of their investments. Forty per cent of their income is derived from endowments, and of the remainder only about a half is received from the proceeds of taxation and of appropriations made by the towns.[1] There is no obligation on the part of the community to care for its poor, and the bureaus are obliged to limit their expenditure to their income. The result is that the expenditure of these bureaus

[1] Reitzenstein, S. 162.

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averaged in 1884 about 18 cents per capita of the whole population, while in England the expenditure for so-called out-door relief alone amounted in 1886 to about 46 cents per capita.[1] It would not be fair to attribute this result entirely to the poor laws of the two countries. There are many other circumstances, such as the thrift of the people, the activity of private charities, *etc.*, which exercise an influence, though one that it is difficult to measure. The figures, however, are striking, especially in view of the belief of some of the French statisticians themselves that the favorable showing is largely due to the correct principles upon which poor relief is administered in France.[2]

Whatever may be thought, therefore, of the existence of a natural right to relief, the recognition of such a legal right can be shown, both *a priori* and *a posteriori*, to conflict with the very end for which poor relief exists.

(3) One more question must be dealt with before bringing this paper to a close. What should be the relation of public relief to private charity? Private charity we have assumed from the beginning to be one of the data in the case. It is something which exists and which could not easily be eradicated, even if it were desirable to do so. Moreover, we may assume without further argument that the sentiment which leads to the exercise of private charity is one of social utility; kindness, benevolence, an interest in our fellow-men, are all of them sentiments without which the world would be, not only much more dreary than it is, but much less productive. They furnish the social cement which prevents society from being engaged in a constant war of all against all, and make the individual agglomerations of men which we call states better able to live without breaking to pieces.

The extent to which the government cares for the poor should therefore adjust itself to the amount of work that is done by private effort. It cannot be determined by a hard and fast rule. The government should restrict or expand its action according as private charity is active or indolent. In many in-

[1] Annuaire statistique de la France, 1887; Report of Local Government Board, 1887.

[2] Reitzenstein, S. 200.

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stances it may be found, as was the case in the city of Elberfeld in 1816, that private charity is utterly unable to cope with the difficulty.[1] In other cases, as in Brooklyn, Philadelphia, New York, and Baltimore, it may be found that private agencies are capable of dealing with the problem of out-door relief, and that the city authorities can confine themselves to the management of the necessary institutions.

It should always be remembered that private agencies can do what public ones are unable to do, for they can exercise charity. The quality of mercy is not strained, and an enforced poor relief can never partake of the nature of charity or bring forth the fruits of benevolence. If the worthless classes are to be improved, it must be done by means of a sympathetic but intelligent interest on the part of others. A mere machine, such as the department of public charities is very apt to become, can never exercise a personal and moral influence. The government should therefore avoid all measures that will tend to weaken the beneficial effects of real charity. It should supplement, not supplant it.

There are cases, however, in which private charity, though springing from the best sentiments, is exercised with so little intelligence as to be itself the cause of pauperism and therefore injurious to the state. Look, for example, at the condition of things in Bavaria in 1790, when Count Rumford undertook to carry out his great reform in the relief system of that kingdom:

> So numerous were the swarms of beggars in all the great towns, and particularly in the capital, so great their impudence and so persevering their importunity, that it was almost impossible to cross the streets without being attacked and absolutely forced to satisfy their clamorous demands. . . . *The habit of submission on the part of the public* gave them a sort of right to pursue their depredations; their growing numbers and their success gave a kind of *éclat* to their profession, and the habit of begging became so general that it ceased to be considered as infamous, and by degrees in a manner interwoven with the internal regulations of society.[2]

[1] Böhmert, Das Armenwesen in 77 deutschen Städten, 1886, S. 52.
[2] Count Rumford's Essays, vol. i, pp. 15–17.

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A curious illustration of the effects of indiscriminate private charity is seen in the growth of a regular trade of begging in Russia. There are whole villages in the government of Moscow which have adopted this profession. Their inhabitants start out on their tour each year after the harvest. They are organized in gilds of from ten to twenty persons, and travel in wagons. They separate in order not to attract too much attention, arranging to meet at some place after one or two weeks' time in order to sell the proceeds of their mendicancy. On arriving at a town they leave their wagons outside and go through the streets begging singly or in small bands. The women bring along their children to excite pity; the old men appeal to their age and decrepitude; while the able-bodied, clad in charred furs and shirtless, claim that they have been the victims of fire. If such a wagon-load of beggars encounter other travellers on the highway, they cover up the old man of the party with blankets, and beg for money to bury their aged father. Not only are the cash returns of this profession said to be very large, but the horses are greatly raised in value by being fed upon the bread which their owners beg.[1]

All who have anything to do with organized charitable work know that charitable people themselves often constitute an impediment in the way of helping the poor, and that the problem of dealing with the indigent is often rendered more difficult by their well-meant but misdirected efforts. While, therefore, the state should endeavor to allow the greatest extension to well directed private charity, it should not hesitate to correct or even suppress it, when its results are obviously detrimental. Thus a Swiss canton, which ought to be the last place in the world to disregard individual rights, considers it perfectly within its province to prohibit private individuals from writing letters of recommendation for beggars.[2] In fact the early history of poor relief in Europe shows that the suppression of indiscriminate

[1] See Buxhövden, in Schmoller's Jahrbücher, vol. x, no. 3, 1886.

[2] Canton of Glarus, Poor Law, § 24: "Ebenso ist sowohl Behörden als Privaten die Ausstellung allgemeiner schriftlicher Empfehlungen zur Sammlung von Unterstützungen (Bettelbriefe) verboten."

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giving was held to be a necessary corollary to state relief, and we find such prohibitions in countries whose administration in other respects was most different. The free cities of Germany found it no less necessary to put down this abuse than Peter the Great, who imposed a fine of five rubles for the first offense and ten for the second upon all who gave money to beggars in the streets of St. Petersburg.[1]

Thus, while the public reasons for entrusting the state with the care of the poor are comparatively simple, the methods must necessarily adapt themselves to circumstances. To say that the state should leave matters entirely as they are would be as impracticable as to say that it should take entire control of the matter. To say that it should give only out-door relief would be as much at variance with its best interests as to say that it should give only in-door relief. In fact, we shall never make any progress in dealing with this subject until we realize that pauperism is a social disease, not an economic state. Pauperism does not mean simply the absence of funds; it means the mental and moral habit which occasions this lack of funds; and while it would seem as Utopian to look forward to the speedy abolition of poverty as it would to the discovery of the elixir of life, it does not seem unreasonable to hope that pauperism as an epidemic may be as thoroughly checked as have been the ravages of the smallpox or the black death.

Those who are fond of quoting the saying, "The poor always ye have with you," seem to forget that the remark was made as a rebuke to one who wanted to distribute in alms what was being, in his judgment, wasted in ointment. It was intended to check poor relief, not to encourage it, and the person at whom this public rebuke was aimed was none other than Judas Iscariot, who wished to swell the poor fund because he had the administration of it.

It will not do, therefore, to assume that we are coping with an evil that cannot be cured. To take that view would be to confess judgment at the very opening of the case. Many diseases have been counteracted in their effects by the discovery

[1] Buxhövden.

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that they are caused by an infinitesimal germ or bacillus, so that the best means of checking the disease is to attack the bacillus itself. Can we not do the same thing with regard to the social disease of pauperism? And though the bacillus itself may not be subject to microscopic inspection, may we not judge, by a careful study of the various influences to which it is subject, what means are to be adopted to check its ravages? Unfortunately, recent pauper legislation has not dealt very extensively with the matter from this point of view. Most of its history is the record of temporary expedients to alleviate the patient's suffering. We read of

> How the breast was soothed and how the head,
> And all his hourly varied anodynes;

but we read comparatively little of efforts to attack the cause of the disease. We see the application of tons of cure, but the ounce of prevention seems to be an article that our social apothecaries do not keep. The one lesson that is most difficult for legislators to learn is that in many cases "apparent hardness is the truest charity."[1]

The remedy is, to be sure, not simple. One side of the case, however, has been pretty clearly demonstrated by our experience. While we have not found an infallible means of killing the germ of pauperism, we know fairly well in what kind of an environment it thrives. We have seen it propagated in the middle ages to a large extent by church charity and private alms. We have seen it fostered in more recent times by sentimental legislation and theories regarding the natural rights of man. We know fairly well, therefore, what is to be avoided. The real problem is to ascertain by what positive measures this social bacillus can be radically exterminated.

HENRY W. FARNAM.

[1] Report of the Minnesota State Board of Corrections and Charities for 1884, p. 141.

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THE ENGLISH LOCAL GOVERNMENT BILL.

IN an article in a previous number of the POLITICAL SCIENCE QUARTERLY,[1] I endeavored to describe the condition of English local government at the present time. It was shown that the existing system, if system it can be called, is based on no general principle, but has grown up gradually, new authorities having been created to supply new wants with little attempt at symmetry of form or harmony of action. The gradual growth of these various authorities has brought with it a confusion of areas which makes the work of government extremely difficult and at the same time adds greatly to its expense. There has been hardly any attempt to make the areas of government coincide, or to make the smaller areas integral parts of the larger. Parishes are often in two counties, and a part of a municipality often lies in one poor-law union, a part in another. For nearly every purpose of administration, as the commissioners of the census pointed out in 1871, the country is divided up differently, no public authority paying much regard, in districting the country, to the divisions formed by the other authorities. The county of Bedfordshire may be taken as an example. With an area of 97,000 acres and a population of 41,000 souls, it

has one court of quarter sessions, and is divided into nine hundreds, seven petty sessional divisions, and eight lieutenancy sub-divisions. The police divisions, with two exceptions, coincide with the petty sessional divisions. The county contains three municipal boroughs; three urban sanitary districts; six rural sanitary districts, some of which stretch into adjoining counties; six highway districts, two of which stretch into adjoining counties; six burial board districts; four lighting and watching districts; 45 school districts, four of which run into adjoining counties; six unions, some of which overstep the county borders; 134 entire poor law parishes, and portions of three more. All these divisions overlap and interlace.[2]

[1] December, 1887; vol. ii, p. 638.

[2] M. D. Chalmers, Local Government, p. 19.

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Not even is the same parish always contained within unbroken boundaries. In 1873 there were in one county more than seventy divided parishes, while one parish alone had ten outlying portions. That this irregular form of the parish is quite common is seen from the fact that in the entire country, at the same date, there were as many as 1300 divided parishes. Further, the same classes of areas are not by any means the same in extent or population. Thus the county of Rutland had 95,000 acres and 21,000 inhabitants, while that of Yorkshire contained nearly 4,000,000 acres and nearly 3,000,000 inhabitants. Some of the larger counties, however, are divided up into "ridings" and "liberties" which, for many administrative purposes, serve as counties. The same discrepancy in size and population is found in the unions and the parishes.

Almost every one of these areas, so irregularly formed, has its own authority, with duties to perform affecting usually only one branch of the administration, though the attempt has of late been made to consolidate several of the most important functions of administration in the hands of the authority of the union, *viz.* the board of guardians. The result, in the words of Mr. R. S. Wright, is that

> the inhabitant of a rural parish lives in a parish, in a union, in a county, and probably in a highway district. He is or may be governed by a vestry, a school board, a burial board, a highway board, the guardians, and the justices. There are a multitude of minor matters in respect of which the districts, authorities, and rates are or may be additionally multiplied and complicated in all the above cases.[1]

Nearly every one of these authorities has the power of levying taxes, and very often each has its own machinery for the collection of taxes. Mr. Goschen, in one of his speeches, said that he "received in one year 87 demand notes on an aggregate valuation of about £1100. One parish alone sent me," he says, "eight rate papers for an aggregate amount of 12*s.* 4*d.*"[2]

The system of areas and authorities has become simply a

[1] Wright's Memorandum, no. i, p. 33; cited in Chalmers' Local Government, p. 21.

[2] Local Government and Taxation in the United Kingdom (1882), p. 127.

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chaos — "a chaos," in the words of Mr. Goschen again, "as regards authorities, a chaos as regards rates, and a worse chaos as regards areas." It is no wonder that local government reform is ardently desired. Were nothing else sought than an orderly administration, great changes would have to be made. But it is doubtful if a simple lack of theoretical symmetry would be sufficient to overcome the conservatism of the English, however desirable the reform might seem to outsiders. The present institutions are said by their defenders to be not so bad in actual practice as they appear to be. They work with tolerable efficiency and the people are accustomed to them. It is for these reasons that England has put up so long with a method of local government that leaves so much to be desired.

But since 1832 the political condition of the country has been greatly modified. The balance of political power in Parliament has been taken out of the hands of the nobility and gentry and transferred, by gradual steps, to a constantly widening constituency. The power which the people have obtained over Imperial affairs they desire to exercise also over local matters, and this they cannot do under the present distribution of powers. The existing system is really dual: it combines the "county" and the "board" system. In the county system the chief authorities are the justices of the peace, who are still appointed by the government at London from among the most prominent men of the county. These officers, in the court of quarter sessions, form the deliberative and, so to speak, the legislative authority of the county, vote the county taxes and, acting singly or in petty or special sessions, perform a series of judicial and administrative duties. Before 1834 their duties were even more extensive than at present; in fact they were practically the only responsible officers in the rural districts. But the success of the Reform bill and the desire already evinced by the people to control local as well as Imperial matters led to the passage of the Poor Law Amendment act of 1834. This gave much of the control of the financial matters connected with the administration of the poor law into the hands of popular, elected representatives, who since that time

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have been entrusted also with the care of sanitary matters, school matters and, in many cases, highway matters. These elected representatives, together with the justices of the peace as *ex officio* members, are organized as boards, and in these boards we have the second element of the present English system of local government. The elected members of these boards are not chosen by universal suffrage, but by the ratepayers, *i.e.* the occupiers and the owners of real property. The method of plural voting prevails very generally — one vote for each ratal up to £50, two for £50, and one more for every additional £50 up to £250. As the same person may vote as occupier and as owner, one person may easily have as many as twelve votes. The owners of the larger estates have thus a double advantage over the smaller ratepayers. In choosing the elected members of the boards they have an influence wholly out of proportion to their numbers; and in the *ex officio* membership of the justices, who belong to their class, they have direct class representation besides. Under the law of 1834, accordingly, the landed gentry still exercise great influence in local matters — a far greater influence than in Imperial affairs. This is one of the reasons why a change in the present system is so constantly and so vehemently demanded.

A second reason for this demand is the centralization of authority in the existing system. At the same time that the local government has become partly representative, the whole administration of local affairs has fallen more or less under a central control. In several important matters, such as the administration of the police force, the wishes of the county authority have to bow to the will of the authorities at London, while the various boards can hardly move at all without central approval. This almost complete destruction of the local autonomy of which England was in former times so proud is bitterly deprecated by some of her best men, and is undoubtedly exercising a great influence in bringing about the change which from present indications seems bound to come.

What now are the points to which special attention will have to be directed when this change is made? They are:

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I. The readjustment of areas.
II. The reorganization and concentration of authorities.
III. The relaxation of the central control.
IV. The reform of local taxation.
V. The position of the municipalities.

I. *The Readjustment of Areas.* It must be decided what areas of the many now existing shall constitute the territorial bases of the new system. Regard must be had in such choice to the comparative vitality of existing institutions. "The very first rule which a statesman would set before himself in attempting so difficult a task would be the rule against destroying any institution which has real life."[1] If this rule be kept in mind, it would seem advisable to retain the county as the largest provincial area. County institutions, notwithstanding their unrepresentative character, have a real life by virtue of their historical associations and their actual condition. Of course county boundaries should be considerably modified. Where any county has outlying portions, these ought to be annexed to the counties to which they naturally belong, and the frontier line should be revised in accordance with natural conditions. It would also seem necessary to divide the largest counties or to adopt, for most administrative purposes, their present divisions of ridings and liberties as separate counties. The average size of a county at present may be represented by a square of thirty-three miles or a circle of eighteen miles radius; so that, as far as size is concerned, the counties or their present divisions seem well fitted to be the largest provincial areas.

The union also should be retained. For, notwithstanding the fact that it has no historical tradition in its favor, dating as it does only from 1834, it has still a real administrative life, and its abolition would be extremely difficult on account of its property interests and the administrative institutions connected with it. But if it be retained, it can be made use of only as an area intermediate between the county and the smallest divisions; for its size (the average union being represented by a square of

[1] Local Government and Taxation (1875), p. 73.

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nearly ten miles or a circle of five and a half miles radius) makes it at the same time too large to be chosen as the smallest division and too small for the proper performance of all county duties. Further, if retained, it should be made to form an entire part of one county and not be allowed, as is the case at present, to spread over two or more counties and bring confusion into the system.

The selection of the smallest area offers greater difficulties. So far as the rural districts are concerned, the choice lies between the rural sanitary district and the parish. The latter has historical tradition in its favor, but the former exhibits the greater administrative life. Except as a school district, the parish has little life, and as a school district it is now separately organized. As a parish, it is actually little more than an area for the purposes of elections and taxation. But whichever of these two divisions be chosen, it should be charged with all the purely local services. If the parish be chosen, its boundaries should be so readjusted that each parish would form an entire part of the county, and it should have charge of the less important highways and of the sanitary administration. If it be decided to adopt the sanitary district, to it should be given the care of the schools, of the highways and of the various minor services attended to by the parish; and all other divisions should be abolished. The urban areas would not need to undergo great change. They should be made component parts of the union and of the county; and the parish organizations existing within their limits should form simple municipal wards, deprived of all administrative functions.

These changes, it seems to me, must unquestionably precede and furnish the basis for a thorough-going reform. Similar changes had to be made both in France and in Prussia when their local government systems were reorganized to suit modern conditions.

Until the introduction of the Local Government bill, now before Parliament, none of the plans proposed attempted to make any radical change in existing areas. They all preserved the county in its present condition, form, and size, and most of them

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at the same time retained the union without attempting to have it form an entire part of one county. None of them attempted to simplify the system either by abolishing superfluous areas or by combining the smaller divisions into larger districts. As regards areas, the *status quo* was in every case preserved. The present bill, which was brought into Parliament the middle of last March, is hardly more satisfactory in its treatment of this problem. As the London *Times* says, in its issue of March 20, "the government have approached this question tentatively and tenderly." As the future provincial area, in the first place, they have taken the county as it stands, making no attempt to equalize the dimensions of the different counties. Some attempt, it is true, has been made to straighten boundaries: it is provided that towns and urban districts lying in two or more counties shall hereafter belong to that county in which the majority of their population reside, while rural sanitary districts shall, if necessary, be so divided as hereafter to fall wholly within county lines. Whether those portions of the old districts which have been separated in order to make the districts conform to county lines shall be joined to districts already existing within the county, or be made independent districts, is to be decided by the new county authority. The other areas, *i.e.* the unions and the parishes with their school administration, are to be left in their present condition. The bill provides, however, for the change of parish boundaries by the new county authority in conjunction with the Local Government board at London; so that it will be possible to make the parishes, and consequently the unions, which are composed of a given number of parishes, compact areas and at the same time component parts of the counties.

It cannot be said that this is an altogether satisfactory solution of the question. England will have, as before, the county, the union, the petty sessional division, the urban and the rural sanitary district, and the parish. All that is gained is that each sanitary district will form part of a single county. The union may still extend, in many cases, over the boundaries of the county, and the parish may continue to intersect the boundaries of both county and sanitary districts. The measures proposed

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by the bill are steps in the right direction, but it may well be questioned whether they are sufficient. Until the union and the parish are brought into line, England will lack that territorial symmetry and simplicity, without which as a basis good government is so difficult. The permission to alter boundary lines, which the new bill gives to the new county authority, should be changed into a command. It has already been ascertained in England, by repeated experience, that permissions to change boundaries are so sparingly used as to result in little improvement.

II. *Reorganization and Concentration of Authorities.* All the work of the county should remain, as at present, in the hands of the county authority. County work might logically be made to include the care of the poor, but it would probably be unwise to abolish the union with its authorities. All work of more local character, however, should be given to the authorities of the smallest rural divisions and of the municipalities. All other authorities should be abolished. The care of sanitary matters might be taken from the guardians, in whose hands it is at present, and given to the authorities of the smallest rural divisions, as in this country. Further, the authorities in the smallest rural division, whether this division be sanitary district or parish, should be fewer in number and should receive a more concentrated organization. A plan of this sort was worked out by Mr. Goschen in his Rating and Local Government bill of 1871. He proposed the formation in each parish (the parish being chosen as the smallest rural division) of a parochial board, which should have the powers now exercised by the overseers of the poor, the inspectors of lighting, the highway surveyors and the nuisance authorities. The chairman of the board, elected in the same way as the other members, was to be practically the mayor of the parish. Mr. Goschen might have gone further. Such a board should also act as the school authority, where a school authority is required, and as the board of health. By a scheme of this sort, the entire local administration in the smallest localities would be concentrated in the same hands. Each locality would have a distinct budget of its own, in place

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of the separate budgets of each of the present separate and independent authorities, and some sort of order would be introduced into the parish administration.

The organization of these county, union and parish authorities is a matter of the greatest importance. It is here that the greatest change from the present system will have to be made if the demand for local representation in all local matters is complied with. At the present time, as has already been shown, it is the justices who wield the greatest power of any of the local officers. So far, most of the reform propositions evince great reluctance to deprive them of this power. Notwithstanding their unrepresentative character, the justices themselves are not unpopular. Of the present county system, it has been said, and truly, that it is "doubtful if in many counties it is possible to attain, consistently with efficiency, very much more economy than is at present exercised in the administration of the county rate."[1] And again:

> Few will deny that more intelligence and public spirit is to be found in the county magistracy, whether assembled at quarter sessions or acting *ex officio* on various mixed boards, than is manifested by the elective delegates of the parishes.[2]

On this account most of the bills so far brought into Parliament have made provision for the retention of a certain number of magistrates on the proposed county board. But in view of the desire of the English people to exercise a direct control over their local affairs, it is doubtful if any bill will be satisfactory which does not take away from the justices most of their administrative powers and transfer these powers to the board or boards composed altogether of popular representatives.[3]

Such a transfer is the logical sequel of the Municipal Corporations act of 1835 and of the Reform bills which have changed the balance of power in Parliament; it accords, in principle, with the

[1] Local Government and Taxation in the United Kingdom (1882), p. 89.

[2] *Ibid.* p. 67.

[3] Such a change would not by any means involve the abolition of the office of justice of the peace, for these officers exercise judicial as well as administrative functions.

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reforms which have been accomplished on the continent; it is in line with the political trend of the century. The administrative duties now discharged by the justices could be transferred with little change to the new authorities. The new representative county authority would have charge of the finances of the county, of lunatic asylums, of certain highways and bridges, and of the county police; while licenses might be attended to by the county, parish and urban authorities in somewhat the same way in which they are now attended to by the quarter and petty and special sessions.

If the local boards, to which the administrative functions now discharged by the justices are to be transferred, are to be elected, as is proposed, it will be necessary to decide what shall be the property qualifications of their members and electors. At the present time only ratepayers vote, but plural voting gives the larger ratepayers a disproportionate influence in local administration. Most of the reform plans have adopted the present system of voting, and have demanded from the candidates for election to the county board a higher property qualification even than is at present demanded of the guardians. But if the reform is to accord with the demands of the people, plural voting must be abolished, and the property qualification for membership in the local boards must certainly not be greater than is now required in the case of the guardians of the poor. The qualification for elector may, perhaps, remain unchanged for the present, although the adoption of universal suffrage seems only a question of time.

The adoption of the election system will necessarily raise the further questions: — (1) What area within the county is to elect the representatives on the county board? The plans which have been proposed previous to this year have put forward as the election district the union, the petty sessional division, the parish, and a ward to be formed out of a combination of several parishes. None of these areas, with the exception of the petty sessional division, is co-terminous with the county, and therefore none, with this exception, could with propriety be taken as the election district. But the choice of the petty sessional

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division would introduce into the problem of areas an entirely new element, and make it even more complicated than before. (2) What shall be the method of election? All previous reform plans have sought to introduce the principle of indirect election, the guardians of the poor being ordinarily selected as the intermediate body. The introduction of indirect election seems to me unwise, because it is foreign to the English law, and because it has not worked as well as was anticipated here in America; but, if it is to be introduced, there is still a grave objection to making the guardians electors. The guardians of the poor are elected in the parishes without any reference to county matters, and it does not seem wise to give officers chosen for other than county purposes the power to choose the representatives of the localities on the county board.

The new bill treats most of the questions here outlined in a very satisfactory manner. It provides for a fairly complete separation of judicial and administrative affairs; it provides for representative authorities; the qualifications for elector and for eligibility are the same as in the municipal boroughs (payment of rates and residence within the borough, or in place of residence a larger than the usual ratal); plural voting is abolished; the election district is to be a portion of the county, designated for this special purpose in accordance with the population; and the election of the county authority or "council," as it is called, is to be direct. At least the greater part of the county council is to be constituted by direct election, one county councillor being chosen in each election district. But in addition to the elected councillors, the council is to contain a number of "selected members," equal to one quarter of the whole number of the county councillors. These are to be chosen by the elected councillors from among the ratepayers. They are to serve twice as long as the elected councillors, *viz.* for the term of six years, one half of their number being renewed every three years. Finally, each council is to have a chairman, who is *ex officio* a magistrate. The whole plan of organization of this new authority is evidently copied from the Municipal Corporations act of 1835,[1] which formed a town coun-

[1] Re-enacted, with its amendments, in 1882.

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cil on about the same lines as those laid down in the bill under consideration; and the recognized success of that act has undoubtedly had great weight with the framers of the new bill.

An examination of the duties assigned to the new county authority shows that England, if this bill becomes a law, will take a long step in the track already trodden by the countries of the continent. The bill provides for an almost complete separation of administrative from judicial functions. The judicial functions of the justices of the peace are left practically unchanged; but almost all their numerous administrative duties are henceforward to be performed by the new authorities, chief among which is the county council. The bill provides that this new body shall attend to the levying of the county rate and the financial administration of the county; shall maintain the county roads and bridges, the lunatic asylums and industrial and reformatory schools; shall execute the laws relative to the registration of vital statistics, weights and measures, and the adulteration of foods and drugs, *etc.* — in a word, shall discharge almost all the administrative duties which are now attended to by the justices of the peace in quarter sessions. The bill also proposes a considerable decentralization in certain branches of administration, in that it throws on the county councils the decision of various matters now regulated by the provisional orders of the Local Government board at London, and asks that discretion be given to the executive to devolve upon these same county councils, by means of orders in Council, all administrative duties relating to the localities now performed either by the Privy Council or by some one of the various executive departments of the government. Finally, the county councils are to have large powers in the settlement of the boundaries of the new county district.

Notwithstanding these great changes, the bill does not see fit to transfer to the new county councils all the administrative powers at present possessed by the justices of the peace. On the contrary, it proposes to apportion between the new authorities and the justices certain powers which, according to the view taken by the present government, partake at the same

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time of a judicial and of an administrative character. Thus the general direction of the police force of the county is to be given to a joint committee of the county council and the quarter sessions, while the chief constable of the county is still to be appointed, controlled and dismissed by the quarter sessions. The granting of licenses for the sale of liquor is treated in very much the same way. The county council is to divide the county into licensing divisions, in each of which there is to be a licensing committee of not less than six elected representatives of the county council and of a number of "selected members" equal, at least, to a third of the whole committee. These licensing committees and the justices of the peace are to share the determination of all license questions: questions of policy and expediency falling within the competence of the committees, while questions of law, such as legal incapacity to receive a license or forfeiture of a license, are to be decided by the justices. From the decision of the committee, refusing to renew a license, appeal may be taken to the county council, which must, however, confirm the action of the committee unless it is satisfied that the license, for some special reason, ought to be renewed. In the case of a refusal to renew a license granted before the passage of this act, compensation must be paid to the former licensee. Finally, the question of Sunday (holiday) closing is put under the control of the county council for the whole of the county or any portion thereof.

In addition to the county council, the bill provides for district councils. The district councillors are to be elected in the same way and by the same electors as the county council, *i.e.* by the ratepayers of each district, each ratepayer having one and but one vote. The councils are to preside over the affairs of the districts of which the county will be composed after existing sanitary districts shall have been modified as proposed by the bill. They are to take the place of all the various local boards at present existing under different names in the local government districts, with the exception of the town councils in the municipal boroughs, which are to retain their own peculiar organization. In the rural districts the duties of these boards are

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mainly sanitary; in the urban they are a little more extensive, including such municipal matters as the care and improvement of the streets and the beautifying of the town. In all the districts almost all the duties of the parishes, except those relating to the public schools, are transferred to the new district council, so that except as school district the parish in future will be little more than an area for elections and taxation.

It will be seen, from this brief sketch of the authorities to be created, that the present bill does not sufficiently concentrate the local powers. The poor authorities and the school authorities will remain practically intact. The substitution of the new district council as sanitary authority in the rural sanitary districts is simply the addition of another authority to the list of those now in existence, since the sanitary administration of the rural districts is at present in the hands of the guardians of the poor. If the bill becomes law the number of authorities will not be materially lessened. The number of rates to be collected will remain about the same, and it will be little easier to make up a budget of all the expenses of a given section of the county. The bill does not sufficiently simplify areas nor does it sufficiently concentrate local powers. The great change it makes is this: the county government is made more representative and the relative power of the smaller ratepayers in the local elections is increased. But this is precisely what the English people want. Their conscious grievance is not the unsymmetrical and confused character of the present system, but the unrepresentative character of their local government.

III. *The Relaxation of the Central Control.* Over the county administration little central control is exercised. What there is is confined to the police and to pauper lunatic asylums; and here the central control is justified by the fact that the Imperial exchequer contributes half of the expense if, on inspection, it is found that the provisions of the law have been complied with. In the board system, however, the central control is very extensive, embracing the subordinate personnel of the service as well as the finances and the general administration of all the services attended to by the various local boards. The existence of so

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strong a control is one of the objections offered to the present system of local government, and yet it will be very difficult to dispense with it, or even to relax it sensibly, and at the same time preserve that administrative uniformity and efficiency which its formation was intended to secure. It has sprung, as has been said, "from a popular eagerness to employ the powerful machinery of central legislation and administration to compass some end which is ardently desired"; and these ends, it may be added, cannot safely be assumed to have been yet attained. The central control cannot well be lessened "until the more backward parts of the country have placed themselves on a level with the more advanced; and the example of municipal corporations shows how little self-reform can be trusted, and how much self-government may gain by Imperial intervention."[1]

The authors of the new bill recognize the difficulties of making any great change and therefore approach this subject of the central control with great caution. Changes are nevertheless proposed in two directions. (1) The control at present existing is largely decentralized. In many matters its exercise is taken from the central authorities and transferred to the county authorities. That is, many supervisory powers over the localities, especially the urban localities not boroughs, which are now exercised by the Local Government board at London, are given absolutely to the new county councils; and provision is made for the transfer to these same county councils, by orders in Council, in case there is no opposition on the part of Parliament, of all the administrative powers over the localities now exercised by the Privy Council or by the central executive departments. The Home secretary, however, is to retain a sensible control over the county police. (2) In certain matters the present central control is to be extended over authorities which are not now subject to it. The county authority, for example, is not to borrow money in future without the consent of the Local Government board at London; the officers of this board are to audit the accounts of county officers and of almost all the

[1] Local Government and Taxation (1875), p. 69.

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other local officers; and the district councils are left under the same restrictions as at present. The result of these changes will be to subject all parts of the country to about the same central control, and, at the same time, to decentralize in many directions the control at present exercised.

Further, the bill proposes to discontinue the "grants in aid" on which a large part of the present control over the county administration is based. These amount at the present time to about £2,600,000. At the same time, the bill proposes to transfer to the counties the fees obtained from a long list of licenses together with "contributions from personalty," as they are called, which are to be obtained from the Imperial probate duties. The amount of money so to be transferred exceeds, however, by about £3,000,000 the customary grants in aid, so that if the new bill is passed the counties will be the gainers by quite a large amount. They will receive the entire product of the licenses, which will continue to be collected by the officers of the internal revenue (for whose work, however, a commission will be charged), and they will also receive a portion of the "contributions from personalty," which are to be distributed among the various localities according to their comparative need.

Nothing is said in the bill about the grants now made by the Imperial government for the purpose of furthering the cause of public education, but since the bill does not attempt a reorganization of the educational system, these will in all probability continue in about the same proportions as at present.

IV. *The Reform of Local Taxation.* This question is one which is indissolubly connected with the question of local expenses. Indeed, all the changes that need to be made would affect local expenses rather than local taxes. The taxes are quite satisfactory at the present time. They are "rates," based on the poor rate and levied on the occupiers of real property. The great objection to the present rates is that there are too many of them. As has been shown, almost every one of the numerous authorities now in existence has the power of levying rates, so that there is a special rate for every local expense. It is felt by many that there should be only one or two rates,

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from the proceeds of which the entire expense of the local administration should be defrayed. If this were the case, all that would have to be done in the way of reform would be to distribute the expenses of the different services fairly among the different localities. The mode of distribution would depend upon the number and character of the authorities which were left in existence. If these were the county council, the board of guardians, and the parish or urban authority, the problem would be susceptible of an easy solution. The expenses of the county and those of the union could be apportioned among the parishes and urban localities. If the sanitary district were allowed to remain in existence, its expenses could be apportioned in like manner. If the purely local authorities, *i.e.* those below the union, were consolidated in somewhat the way suggested by Mr. Goschen in 1871, the local rate would then pay the local quotas of the expenses of all the superior districts, such as the county and union and sanitary district (if that were retained), and also the purely local expenses of the locality itself. Of course the apportionment of the county, union and district expenses among the various localities, if made on the basis of valuation, might lead, by reason of variations in the rate of valuation in different parishes, to unfair results. A parish which valued its property at a smaller rate than the other parishes would not pay its fair share of the apportioned expenses of the county union and district. This difficulty has been experienced already with regard to the expenses of the union, some of which are apportioned among the parishes, and has led to the establishment of assessment committees of the guardians to hear and decide appeals from parishes which claim to have been aggrieved in the quota assigned them. Some such plan might be adopted for equalizing the valuations of the smallest divisions in apportioning the expenses of the county, *etc.*,[1] or provision might be made for the assessment of the property in each parish by county assessors. By either of these means it

[1] This is the plan adopted in the United States. The expenses of the county are apportioned among the towns, which raise the money needed by a local tax and pay their quotas to the county. The county authority acts as a board of equalization of the valuations of the different towns in the county.

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would be possible to have all the property in the county assessed in accordance with the same rule of valuation. Neither of these plans would completely exclude the possibility, or even the probability, of a variation of valuations in the different parishes, since the members of the county board of equalization, or the county assessors, belonging of course to particular parishes, would be inclined to favor their own parishes at the expense of others. But the only plan that would completely do away with the inequality of which I speak would be the abolition of all apportioned taxes and the introduction of a separate system of taxation, or at least of valuation, for each district in which taxes are to be collected. This would be no improvement upon the present system.

To the authors of the present bill, the problem of local taxation and expenditures seems to have presented difficulties too great to be overcome. No thorough-going reform is attempted. A large number of rates will still be collected, though not so many as are collected now. The expenses of the county and, in part at least, those of the union will still be apportioned among the parishes, and will be paid from the county and poor rates; and the district expenses are to be defrayed as at present, *i.e.* special rates for special expenses will continue to be levied as now on special parts of the districts in addition to the ordinary district rates. The only important change made by the new bill is the partial transfer of the expense of the support of the poor from the union to the county. Each county is hereafter to pay fourpence per day for every in-door pauper supported in the unions of the county.

It can hardly be said that this is a satisfactory solution of the intricate problem of local taxation and expenditure. It must be noted, however, that one important change is proposed in the administration of the local finances, in that both county and county district are to prepare annually local budgets, which shall include all local expenses and receipts except those for schools and for the poor — which, it will be remembered, are attended to by separate authorities. Since most of the duties of the parish are to be transferred to the district councils, the result

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will be that for most purposes of the financial administration each locality will have its own budget, which will contain almost all of the expenses of the locality. This will produce a more orderly state of things than can be attained under the existing arrangement.

V. *The Position of the Municipalities.* So long as municipalities exist within the boundaries of the county and union, their relations with the larger districts must be put on a more satisfactory basis. At present, as has been shown, a borough may be in two counties and may form part of two or more unions, or two unions may exist in one borough. Again, the borough may contain several parishes, or parts of parishes, which have their own officers for the purposes for which the parish exists. Further, if there are public board-schools supported by the locality, the school board is an authority separate and distinct from the town council; and even when the borough boundaries coincide with those of a poor-law union, the guardians of the poor form another authority separate from the town council. At the present time, the larger boroughs are compelled to contribute but little to the expenses of the county; but the smaller boroughs are simply parts of the county, like the other districts, and bear to it the same relation as the other districts, except that they often have charge of the borough police force and of the sanitary administration. What is needed in the case of the largest boroughs is their complete exclusion from the county and the union and the grant to them of county and union powers. In such case the town council should also have the charge of the schools. The boroughs would then have an independent and compact local organization. With the smaller boroughs it would not be possible to go so far, though even in the smallest of them it would seem that the care of the schools might be put into the hands of the town council.

As regards the relation of the boroughs to the counties, the new bill proposes greater changes, perhaps, than in any of the matters that have been considered. In the first place, it exempts the ten largest cities in the kingdom (exclusive of the metropolis, which is dealt with separately) from the jurisdiction of the

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authorities of the counties in which they are situated and confers upon the municipal authorities all the powers to be exercised in the rural counties by the county councils. These boroughs, however, must still contribute to the expenses of the county for the criminal courts. All other boroughs are to form part of the county in which they are situated, as is now the case, and their relation to the county is almost the same as that of the other urban districts. To this rule one exception is made: those boroughs of over 10,000 inhabitants now having a borough police shall hereafter retain this branch of the administration in their own hands. The police force of those boroughs having less than 10,000 inhabitants, on the other hand, is hereafter to form part of the regular county police, which, it will be remembered, is in charge of the county authorities. As county districts, the boroughs not exempted from the county and the other urban districts will be given a proper representation (according to population) in the county council and will be obliged to contribute their fair share to the county expenses. Finally, every borough with over 50,000 inhabitants is to form a separate licensing division under a licensing committee formed of members of the county council. But if the county councillors for the division do not amount in number to six, the licensing committee is to be recruited by the nomination of additional members of the town council. This licensing committee is to have all the powers of the licensing committees described above.[1]

The bill leaves the relations of the boroughs to the unions and to the parishes unchanged. The result is that the various branches of local administration are but little more concentrated in the borough than in the other localities. In no borough will the town council have charge of the administration of public charity or of the schools. These matters will still be attended to by the guardians and the ordinary school authorities. Further, the existence of parishes within the boroughs will still remain as a source of confusion. It is hard to see why the parish organization should not be abolished in the borough and all local powers put in the hands of the town council.

[1] Page 323.

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London, as I have said, is dealt with in a separate part of the bill. It is proposed to make of the metropolis, which lies at present in parts of four counties, a new county — the county of London — with the usual county council as the local authority. This council of the county of London is to take the place of the present metropolitan board of public works and is to attend to most matters of an administrative character affecting the metropolis as a whole. Within this metropolitan area, it would seem, though the bill is not absolutely clear on this point, that the present parishes and united groups of parishes are to form metropolitan county districts with the usual district councils at their head instead of the present vestries and boards. The city of London is to be left in almost its present condition; *i.e.* it will bear about the same relation to the county of London that is borne to the rural counties by boroughs having charge of their own police. The bill proposes, however, to keep the control of the metropolitan police in the hands of the Home secretary, as at present.

Not only are these changes inadequate to bring order into the present chaos of metropolitan institutions, but it seems unwise to burden the Local Government bill with provisions regarding the government of London; and as the provisions regarding the metropolis form an independent part of the bill, it is the opinion of several of the London papers that the government will consent to drop, for the present, its plans concerning London and confine itself to local government reform in the rural counties. This would certainly be a wise course, for the reorganization of the metropolis is a subject of sufficient importance to demand separate treatment.

Such are the points in which reform is most needed in the present system of local government in England, and such are the reforms proposed by the new Local Government bill. Inadequate as these reforms appear from the standpoint of administrative science, which demands greater changes in the direction of simplification of areas and concentration of local powers, it cannot be denied that they remedy that fault in the

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present system which the English people find most objectionable — taxation without representation or without sufficient representation. Hence the almost complete absence of opposition to the bill, except as to a few details; and hence the probability that the bill will become law when these details have been satisfactorily modified. But if it does become law, no student of English political institutions can believe that England has taken her last step in local reform; or that the system of government established by this bill will prove as satisfactory to the Englishman of the future as it appears to the Englishman of to-day. On the contrary, the first assault against English tradition having been successful, we may expect further reforms, by which that simplicity of form and ease of action will be obtained which is at present so lacking in England and which is so characteristic of the countries on the continent.

The political effects of the present bill can hardly be overestimated. The great movement for popular control of local affairs which began with the Poor Law Amendment act of 1834 will have attained almost its fullest possible development. The only further step that can be taken is the adoption of universal suffrage in the local elections. When this has been taken, England, with her practically universal suffrage for parliamentary elections, will have placed herself, whether for good or for evil, by the side of the United States and France. The problems which we have had to solve in this country and which France is at present attempting to solve will be forced upon England as well. If they are satisfactorily solved, the operation of the new law will be extended to Scotland and Ireland, and the most legitimate grievance which underlies the home-rule movement in the latter country will cease to exist. The justices of the peace, in all parts of Great Britain, will go the way that has been trodden by almost every aristocratic official class, and the Irish will at last be allowed to take into their own hands the power of which they have so long been deprived. Of course local autonomy is not synonymous with particularistic legislative power, which is the dominant idea of the present home-rule movement. But the management of local affairs will afford those in whose

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hands it is placed a vent for their political activity, offer them a means of remedying many existing abuses, and do much to reconcile the Irish people to the present "union" — without which the great British empire would lack that national unity which we have so long been striving to attain in America.

Notwithstanding, therefore, the insufficiency of the administrative reforms proposed by the new bill, its passage will be fraught with political consequences of the greatest importance. The aristocratic government which has so long shaped the destinies of England will disappear almost completely and give place to that government by the people whose progress during the last century has been so universal and appears to be so irresistible; and the particularistic demands of a part of her people will have been satisfied without endangering British unity or checking British political development.

FRANK J. GOODNOW.

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TENURE AND POWERS OF THE GERMAN EMPEROR.

PROBABLY there is no subject of public law which stands in greater need of scientific statement to the American public than the tenure and powers of the German Emperor. I do not mean, of course, from the standpoint of practical interest, but of scientific knowledge. It is not an easy topic to treat. The commentaries of von Rönne, Mayer, Zorn, Laband and Schulze make it possible, however, to gain a clear and reasonably complete view of the subject.

The Tenure of the Emperor.

I take, as my point of departure, the proposition that the German *imperium* is not a sovereignty but an office. The sovereignty, according to the most authoritative commentators upon the constitution, is in the Federal Council (*Bundesrath*), not in the Emperor.[1] The Imperial office was created by a conscious and deliberate agreement between the German princes (*i.e.* the monarchs of the twenty-two states), the representatives of the three free cities, and the representatives of the people. It owes its legal existence to a clause in the Imperial constitution, which reads: "The presidency of the Union belongs to the King of Prussia, who bears the name German Emperor."[2] An amendment to the constitution, in the manner prescribed therein for such a case, may therefore deprive the King of Prussia of this office. Article 78 of the constitution provides that amendments to the constitution may be made by agreement of the Federal Council and the Imperial Diet (*Reichstag*), provided less than fourteen of the fifty-eight voices in the Federal Council object to the propositions. In the case of a right expressly reserved by the constitution to a state, the consent of that

[1] Laband, Staatsrecht des deutschen Reiches, I, 197.

[2] Reichsverfassung, Art. 11: "Das Präsidium des Bundes steht dem Könige von Preussen zu, welcher den Namen Deutscher Kaiser führt."

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state is also necessary to an amendment affecting such right.[1] Now the King of Prussia is represented in the Council, casting seventeen of the fifty-eight votes in that body. He can not, therefore, as a fact, be amended out of the Imperial office, without his own consent, by the sovereign power as organized in the constitution. Over against that power, then, he is not merely officer; he holds as against it by his own right. We must go down beneath the constitution to the sovereignty which originally formed it to find the organization of the German state over against which the Emperor is but officer. That (constituent) organization, however, has now no legal existence; and the King of Prussia may always prevent its reorganization by legal means. If it should reappear, it must, therefore, be by his consent or by revolution. The Emperor thus holds his office from the nation below the constitution, but by the tenure of his own right within the constitution. This status and relation result from the indissoluble connection of the Imperial office with the Prussian crown and the possession by the Prussian King of a sufficient number of votes in the Federal Council to prevent any amendment to the Imperial constitution.

The inalienable right to the Imperial office — inalienable, that is, as against every existing legal organization of the German state — is thus seen to be in the Prussian crown, and the succession to the Imperial office must necessarily follow the law of succession of the Prussian crown. The Imperial constitution recognizes this principle by making no provision for the succession to the Imperial office further than what is included in the simple declaration that "the presidency of the Union belongs to the King of Prussia."

In order, then, to learn the law of succession to the Imperial office, we must have recourse to those provisions of the Prussian constitution which regulate the succession to the Prussian

[1] Reichsverfassung, Art. 78: "Veränderungen der Verfassung erfolgen im Wege der Gesetzgebung. Sie gelten als abgelehnt, wenn sie im Bundesrathé 14 Stimmen gegen sich haben. Diejenigen Vorschriften der Reichsverfassung, durch welche bestimmte Rechte einzelner Bundesstaaten in deren Verhältniss zur Gesammtheit festgestellt sind, können nur mit Zustimmung des berechtigten Bundesstaates abgeändert werden."

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crown. Article 53 of the Prussian constitution provides that the crown is, according to the royal house-laws, hereditary in the male branch of the royal house, by right of primogeniture and agnatic lineal succession.[1] The royal house-laws, here referred to and adopted as constitutional law, provide that the heir to the crown must be a descendant of the first wearer of the crown; must be the son of a father capable himself of wearing the crown according to the same laws; must be born in regular wedlock of a mother of equal rank with the father and from a marriage approved by the reigning head of the house.[2] Frederick I of Hohenzollern was the first King of Prussia, and the year 1701 is the date of his assumption of the crown.[3] So long, then, as male descendants from him exist, possessing the above mentioned qualifications, Prussia has a constitutional heir to the throne and consequently the German Empire has a constitutional successor to the Imperial office. If, however, these should fail, the Prussian constitution makes no further provision for the succession. There exists a *pactum confraternitatis* between the princely houses of Brandenburg, Saxony and Hesse, dating from the year 1457 and confirmed, for the last time, in the year 1614, which provides that in case of the extinction of the male line of any of these houses the other two shall succeed to its land and subjects. If this fate befall Hesse, two-thirds shall go to the princes of Saxony and one-third to the Brandenburg house. If it befall Saxony, two-thirds shall go to the Hessian house and one-third to the Brandenburg house. If it befall Brandenburg, one-half shall go to each of the others.[4] It will be seen that the last ratification of this agreement antedates by nearly a century the establishment of the Prussian kingdom by the Brandenburg house, and by nearly two and a half centuries the establishment of the present constitution of

[1] Verfassungsurkunde für den preussischen Staat, Art. 53: "Die Krone ist, den königlichen Hausgesetzen gemäss, erblich in dem Mannsstamme des königlichen Hauses nach dem Rechte der Erstgeburt und der agnatischen Linealfolge."

[2] Schulze, Lehrbuch des deutschen Staatsrechts, Erstes Theil, 213 ff.

[3] Droysen, Preussische Politik, IV, 1, 153; von Rönne, Preussisches Staatsrecht, I, 1, 149.

[4] Von Rönne, Preussisches Staatsrecht, I, 1, 153, Anmerkung.

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Prussia (1850). It will be found, also, that it conflicts with articles 1, 2 and 55 of that constitution, which consolidate all of the territories subject to the Brandenburg-Prussian house into the state of Prussia, declare that the boundaries of the state so constituted can be changed only by a law, and that without the consent of both chambers of the legislature the King of Prussia cannot be, at the same time, ruler of another state.[1] This *pactum confraternitatis* would, therefore, require for its validity, now at least, ratification by both branches of the Prussian legislature. Should this come to pass and Prussia be divided between Saxony and Hesse, the Empire would be obliged to make a new disposition of the Imperial office. There is no probability that the Prussian legislature would ratify this old agreement. The more natural and probable course would be so to amend the Prussian constitution as to allow the male descendants of the female line of the present house to succeed, or the descendants of the male line from an ancestor back of Frederick I, or to place a new house upon the throne. In all of these eventualities the new King would be, *ipso jure*, German Emperor. Whether, if the Prussian constitution should be so amended as to make the female line capable to succeed to the crown or to make the Prussian kingship an elective office, with or without a change of title, the queen or elected king or president would be, *ipso jure*, German Empress or Emperor, is a question which has not, so far as I know, been seriously considered by the German publicists, and I do not venture to suggest any solution of my own.

By and upon the death of the reigning King, the crown passes, *ipso jure*, to the legal successor without any form or ceremony of accession, possibly even without the knowledge, at the moment, of the new King. "'Der Todte erbet den Lebendigen,' 'Der König stirbt nicht," are the general principles of the public law of Prussia and of all the princely states of Germany upon

[1] Verfassungsurkunde für den preussischen Staat, Art. 1: "Alle Landestheile der Monarchie in ihrem gegenwärtigen Umfange bilden das preussische Staatsgebiet." Art. 2: "Die Grenzen dieses Staatsgebiets können nur durch ein Gesetz verändert werden." Art. 55: "Ohne Einwilligung beider Häuser des Landtags kann der König nicht zugleich Herrscher fremder Reiche sein."

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this point.[1] In fact there have never been but two coronations in Prussia. The first was that of Frederick I in 1701, and the second that of William I in 1861.[2] The 54th article of the Prussian constitution requires of the King that he take his oath, in the presence of the two legislative chambers, to govern in accordance with the constitution and the laws. Von Rönne undertakes to support the proposition that should the King refuse to do this, his government would not be legal, his acts would be without binding force, and he might be dealt with by the chambers as a violator of the constitution.[3] Laband, on the other hand, considers this interpretation as extravagant and contradictory to the general principles of the royal system of government. He declares that von Rönne's doctrine would result in the assertion of a right on the part of the Chambers to dethrone the King.[4] There is no doubt that Laband's view is correct. The failure of the King to take his oath would lead to an earnest constitutional question, but in no event could the punishment therefor be so grave as his dethronement or the rendering of his government illegal.

The transfer of the Imperial office follows these same principles. The death of the King of Prussia makes his legal successor German Emperor without any act, form or ceremony executed by or upon the latter.

The King may abdicate, provided he be capable of making such a disposition; but his abdication can only be in behalf of his legal successor and it must be entire, not partial.[5] His abdication of the Prussian throne would work, at the same instant, his abdication of the Imperial office. He cannot hold the latter without the former. The plain words of the Imperial constitution are, that the presidency of the Union belongs to the *King* of Prussia, *i.e.* to the existing bearer of the royal power.

[1] Von Rönne, Preussisches Staatsrecht, I, 1, 159.
[2] Von Rönne, Preussisches Staatsrecht, I, 1, 161.
[3] *Ibid.*, I, 2, 588 ff.
[4] Laband, Staatsrecht des deutschen Reiches, I, 205. Von Rönne holds, in another connection, that the King cannot be dethroned; I, 1, 165.
[5] Von Rönne, Preussisches Staatsrecht, I, 1, 164 ff.

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The last and most difficult question in regard to the succession to the Imperial office is presented by the case of a regency in the kingdom of Prussia. Articles 56 to 58 (inclusive) of the Prussian constitution make thorough provision for such an event in the Prussian state, as follows:

When the King is a minor, or is otherwise permanently prevented from ruling, the adult agnate standing nearest to the crown shall assume the regency. He shall immediately call the legislative chambers together, and they, in joint assembly, shall determine the question of the necessity of a regency. If there should be no adult agnate and if no law shall have been made to meet the case, the ministry shall call the chambers together and the chambers, in joint assembly, shall elect a Regent [if, that is, they decide a regency to be necessary]. Until the Regent so chosen shall assume the government, the existing ministry shall govern. The Regent shall exercise the royal powers in the King's name. He shall, after the establishment of the regency, take oath, in the presence of the united chambers, to hold the constitution inviolable and govern in accordance with the constitution and the laws. Until the taking of the oath by the Regent, the existing ministry remains responsible for all governmental acts.[1]

The King attains majority at the age of eighteen; the princes of the royal house on the other hand at the age of twenty-four. Neither the constitution nor the laws of the land nor those of the royal house prescribe the age which the prince must attain in order to be eligible to the regency. Neither have we any direct precedent to guide us. Von Rönne holds that the com-

[1] Verfassungsurkunde für den preussischen Staats, Art. 56: "Wenn der König minderjährig oder sonst dauernd verhindert ist, selbst zu regieren, so übernimmt derjenige volljährige Agnat, welcher der Krone am nächsten steht, die Regentschaft. Er hat sofort den Landtag zu berufen, der in vereinigter Sitzung beider Häuser über die Nothwendigkeit der Regentschaft beschliesst." Art. 57: "Ist Kein volljähriger Agnat vorhanden und nicht bereits vorher gesetzliche Fürsorge für diesen Fall getroffen, so hat das Staatsministerium den Landtag zu berufen, welcher in vereinigter Sitzung einen Regenten erwählt. Bis zum Antritt der Regentschaft von Seiten desselben führt das Staatsministerium die Regierung." Art. 58: "Der Regent übt die dem Könige zustehende Gewalt in dessen Namen aus. Derselbe schwört nach Einrichtung der Regentschaft vor den vereinigten Häusern einen Eid, die Verfassung des Königreichs fest und unverbrüchlich zu halten, und in Uebereinstimmung mit derselben und den Gesetzen zu regieren. Bis zu dieser Eidesleistung bleibt in jedem Falle das bestehende gesammte Staatsministerium für alle Regierungshandlungen verantwortlich."

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pletion of the eighteenth year qualifies, in this respect, for the assumption of the regency, on the ground that no higher qualification can be required in the Regent than in the King.[1]

The establishment of the regency in the case of minority is not a matter of special difficulty. The constitution undoubtedly authorizes the prince, whom it designates for the regency, to take the initiative, assume the government and call the chambers together, for the purpose of determining the question as to whether the regency is necessary; but the prince must do this in the manner prescribed by the constitution, in article 44, for all the royal acts, *viz.* through the existing ministry.[2] Whether the chambers may constitutionally decide, despite the fact that the King is a minor, that no necessity exists for a regency, *i.e.* that the minor King may rule, is a question of some difficulty. It would certainly be a useless trouble to establish a regency if the King lacked only a few days or weeks of attaining his majority. Von Rönne inclines to the view that the chambers have this power.[3]

The other case mentioned in the constitution as authorizing the regency is one of more difficulty, *viz.*, when the King is permanently prevented from governing. A variety of exigencies of this character may arise. The King may be a prisoner of war or long absent for some other reason. He may become insane or physically impotent. He may become subject to influences which rob him of all independence of thought and act. The delicate question of public law is: How shall it be determined when these exigencies require a regency? It would be impossible to provide in detail, by constitutional law or by statute, how insane or how long sick or absent a King must be in order to make a regency necessary. The Prussian constitution has hit upon the true solution of the problem, by designating an organ, or rather organs, for determining, with full discretion, each case as it may arise. It authorizes the adult prince standing next to the crown in regular order of succession to seize the initiative (in understanding, of course, with the existing minis-

[1] Von Rönne, Preussisches Staatsrecht, I, 1, 490, Anmerkung.
[2] *Ibid.* [3] *Ibid.*

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try), assume the government, call the chambers, submit to them the question of the necessity for the regency, and, if they in joint assembly approve, to exercise the royal powers until the regency is legally terminated. This is one of the most important provisions of the Prussian constitution. It furnishes a legal way out of many difficulties heretofore considered insurmountable in states having kingly government. It may be applied in directions probably unsuspected by its originators. Let us suppose, for example, that the Guelph family-surrounding of the present King should persistently take advantage of his weak and helpless physical condition to dragoon him into acts and agreements highly perilous to the welfare and even existence of the state, contrary to his own best judgment. I do not see why, in such a case, this constitutional provision does not furnish the means of escape from such danger. If the conviction should become universal that the danger was extreme, and if the desire to avoid it were equally universal and intense, what constitutional or legal obstacle would stand in the way of the Crown Prince, in agreement with the ministry, assuming the regency, calling the Chambers, submitting the question to them and, with their approval, removing the royal powers from the King to himself? The constitution confides everything, in regard to this matter, to the unlimited discretion of these three organs; and if they should agree to interpret the state of things above assumed as permanently hindering the present King from governing, who could legally gainsay them?

Von Rönne calls attention to two other eventualities which would require a regency, but which are not expressly provided for in the constitution, *viz.:* when the King dies without existing male descendants, but leaving a pregnant widow; or when the legal successor to the King dies without male descendants, but leaving a pregnant widow, and the King then dies before the birth of the child.[1] It is the presumption of the German law that the child will be a male and therefore heir to the crown. In place of the crown passing on, then, immediately upon the death of the King to the next qualified person in existence, a

[1] Von Rönne, Preussisches Staatsrecht, I, 1, 489.

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regency must be established and the Regent must govern, at least until birth determines the sex of the child. If it should be a male, the regency would continue to his majority; if a female, the Regent would become King.

Of course, the King, the prince entitled by the constitution to the regency and the chambers of the legislature may come to an agreement concerning the regency before the death of the King or in view of the King's inability to govern, but the King can do nothing *ex parte* impairing the constitutional rights of the prince entitled to the regency.[1] The King may also authorize any one to transact certain business for him, *e.g.* to sign certain royal decrees; but this must not go so far as to become a regency, and the arrangement is only valid during the lifetime of the King who makes it and gives no rights to the agent against the King.

The 57th article of the constitution, which provides for the case of failure of an adult agnate without legal provision having been made for the regency, is one of great importance, and stamps the Prussian system with a thoroughly legal character. It authorizes the existing ministry to seize the initiative and summon the chambers. The chambers then, in joint assembly, are vested with discretionary power in determining the necessity for a regency. In case they decide this question affirmatively, they are directed by the constitution to elect the Regent, without being limited to any family, race, or class.[2] The only limitation is that they shall elect a single person Regent, not a board or directory; and this limitation is not expressed in the constitution, but is implied from the general principles of the system and from the language of the 57th article.[3]

The Regent must in all cases take his oath to govern in accordance with the constitution and the laws. If he should refuse or neglect to do so, I hardly think his government should be considered illegal,[4] but he could not exercise any power over

[1] Von Rönne, Preussisches Staatsrecht, I, 1, 491.

[2] Schulze, Das Staatsrecht des Königreichs Preussen, S. 48 ff.

[3] *Ibid.*; von Rönne, Preussisches Staatsrecht, I, 1, 492.

[4] Von Rönne says this would amount to a relinquishment of the regency; Preussisches Staatsrecht, I, 1, 493.

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the constitution of his ministry. The existing ministry, appointed by his predecessor, is, by the constitution, continued in power and made responsible for all governmental acts until he shall have taken the prescribed oath. Whether, in case the chambers called by the qualified agnate should decide against the necessity of a regency, the governmental acts committed by this person before the decision had been reached would be regarded as illegal, I have not been able to learn either from the constitution, laws, precedents, or opinions of commentators.

The regency terminates naturally through the cessation of its occasion. If it should be doubtful whether the occasion has ceased, or if the Regent should undertake to hold on to the government beyond the legal period, neither the constitution nor the laws prescribe the mode of procedure to be employed in meeting the case, nor are there any precedents. The analogies of the constitution would indicate, however, that the King himself, in agreement with the ministry, might call the chambers in joint assembly and submit the question to their decision. Of course, the Regent himself may submit the question, if he will, to the chambers, and when the regency terminates by the Regent himself becoming King, no difficulties in regard to this matter would be felt.[1]

The Regent exercises all of the political and governmental powers of the King, but does not bear the title or possess the personal majesty of the King.[2] He is, however, inviolable and irresponsible while Regent, and cannot be held responsible for his acts during the regency after the termination of the same.[3]

The question pertinent to our subject, to which this somewhat extended explanation is preparatory, is now whether the Regent of Prussia is also Regent of the Empire. The way in which the rule is worded, in the Imperial constitution, does not absolutely compel this interpretation; and von Rönne is of the opinion that, in case of a regency in Prussia, the Imperial question must be determined by an Imperial law. Von Rönne main-

[1] Von Rönne, Preussisches Staatsrecht, I, 1, 494.
[2] Von Rönne, Preussisches Staatsrecht, I, 1, 493 ff. and Anmerkung.
[3] Schulze, Staatsrecht des Königreichs Preussen, S. 50.

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tains that the acts of the Prussian legislature in deciding the necessity of a regency or electing the Regent, or those of the Prussian ministry in convoking the legislature and exercising the royal powers until the Regent is elected, cannot be taken as having any validity for the Empire.[1] On the other hand, Laband holds that the right to the Imperial office is a prerogative of the Prussian crown, inseparable from the other prerogatives of the crown save by the process of amending the Imperial constitution; that the question who shall exercise the prerogatives is a question purely internal to the Prussian state; and therefore that the person, who by the constitution and laws of the Prussian state is vested with the exercise of these prerogatives, permanently or temporarily, exercises, *ipso jure*, the powers of the Imperial office.[2] This is undoubtedly the sound view. Any other would not only violate sound juristic reasoning, but would lead into a maze of practical difficulties. For example: if, in case of a Prussian regency, the Regent did not hold the Imperial powers, then no one would until the Imperial constitution should have been so amended as to meet the case; but the Regent of Prussia would certainly instruct the seventeen voices of Prussia in the Federal Council to resist any project for an amendment which would exclude him from the Imperial office, and these seventeen votes would prevent any such amendment. That is, the Regent could legally produce a permanent *interregnum* in the Empire should his government therein be denied. This would be true also in reference to the administration of the Empire by the Prussian ministry, in case no adult agnate should be at hand and the ministry should be thus compelled to administer the government of the Prussian state until the Regent should be chosen by the chambers and take his constitutional oath.

Whether the Emperor-King could cause himself to be temporarily represented by one person in the government of Prussia and by another in the government of the Empire is a question which I do not find anywhere treated. I should think not, how-

[1] Von Rönne, Deutsches Staatsrecht, I, 225 ff.
[2] Laband, Staatsrecht des deutschen Reiches, I, 203 ff.

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ever, since this would impair the fundamental principles of monarchic institutions. The constitution and the laws of the Empire and those of the Prussian state are equally silent upon this subject, and the only precedent we have, *viz.* that of June 4 to Dec. 5, 1878, is one in which the representation in both spheres was conferred upon the same person — and upon the person who was entitled, by law, to the regency, in case of necessity for the same in the lifetime of the Emperor-King, and to the throne of Prussia and the office of Emperor after his death.

The Powers of the Emperor.

These may be considered under three general divisions: first, his powers as representative head of the Empire over against foreign states; second, his powers in legislation; and third, his powers of internal administration.

I. *International Relations.* The Emperor is vested, by article 11 of the Imperial constitution, with the power to represent the Empire internationally, and for this purpose to send and receive ambassadors, to make agreements, treaties and alliances with foreign powers, and to declare war and make peace. But if the treaties touch any subject already regulated by an Imperial law, constitutional or statutory, then the consent of the Federal Council is necessary to their conclusion and of the Diet also to their validity; and to every declaration of offensive war the consent of the Federal Council is necessary.[1] These are most important and thoroughgoing limitations upon the treaty-making and the war powers of the Emperor. They provide, in the first place, against any conflict which might arise

[1] Reichsverfassung, Art. 11: ". . . . Der Kaiser hat das Reich völkerrechtlich zu vertreten, im Namen des Reichs Krieg zu erklären und Frieden zu schliessen, Bündnisse und andere Verträge mit fremden Staaten einzugehen, Gesandte zu beglaubigen und zu empfangen. Zur Erklärung des Krieges im Namen des Reichs ist die Zustimmung des Bundesrathes erforderlich, es sei denn, dass ein Angriff auf das Bundesgebiet oder dessen Küsten erfolgt. Insoweit die Verträge mit fremden Staaten sich auf solche Gegenstände beziehen, welche nach Art. 4 in den Bereich der Reichsgesetzgebung gehören, ist zu ihrem Abschluss die Zustimmung des Bundesrathes und zu ihrer Gültigkeit die Genehmigung des Reichstages erforderlich.

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between the treaties and the constitution and laws, by requiring the consent of the amending power to such treaties as may touch upon a provision of the constitution and of the legislative power to such as may touch upon a provision of the statute law.[1] A treaty cannot change a law in the Imperial system, without the consent of the law-making power, but a law may change a treaty without the consent of the Emperor. There is, thus, no chance for arbitrary action on the part of the Emperor in the exercise of this power.

The Emperor is likewise most heavily handicapped in the exercise of the power of declaring offensive war. He can act only in agreement with the majority of the Federal Council. As King of Prussia he controls, as we have seen, seventeen voices in the Federal Council, and he may cast these votes in favor of the declaration (or against it, of course), but the constitution requires thirty votes, *i.e.* thirteen more than Prussia possesses, to legalize the act. Only one other state possesses as many as six votes in the Federal Council, *viz.* Bavaria. Most of them possess but one. An agreement between the princely heads of at least three states besides Prussia, and probably of many more, would thus be necessary to a declaration of offensive war. Now these German princes are, for the most part, very conservative men, hostile to centralization of power in the Imperial government, and they know that war tends to that; many of them are old men; many of them are connected by intermarriage with the dynastic interests of almost all the reigning houses of Europe and many of them act, in the instruction of their delegates to the Federal Council, through ministries subject to legislative control in their respective states; while the interests of the three free cities represented in the Federal Council, being commercial, would as a rule be upon the side of peace. If here are not sufficient safeguards against arbitrary, ill-considered, or unnecessary declarations of war, I must confess that I do not know how they could be devised.

The independent prerogative of the Emperor, as international representative of the Empire, consists, thus, only of the powers to appoint and receive ambassadors, other public ministers and

[1] Schultze, Lehrbuch des deutschen Staatsrechts, Zweites Theil, S. 328.

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consuls,[1] to negotiate all treaties, to conclude treaties of peace and such as do not conflict with the constitution and the laws, and to wage defensive war. The president of a republic should not be intrusted with less.

II. *The Powers of the Emperor in Legislation.* The constitution confers upon the Emperor the powers to call, open, adjourn and prorogue both the Federal Council and the Diet and to dissolve the Diet. It imposes, however, the following limitations upon the exercise of these powers: the Emperor must call the two bodies annually; he cannot call the Diet without the Federal Council, but may call the latter without the former; he must call the Federal Council when this is demanded by one-third of the voices in that body; he can adjourn the Diet only once during the same session and for no longer than thirty days, except it consent to another or a longer adjournment; he can dissolve the Diet only by consent of the Federal Council, and, in case of dissolution, he must order new elections within sixty days and reassemble the Diet within ninety days. Moreover, the annual voting of the budget requires the yearly assembly of the legislature.[2]

The Emperor is empowered to appoint the chairman of the

[1] The Emperor can appoint the consuls only upon hearing the committee of the Federal Council for commerce and intercourse; Reichsverfassung, Art. 56.

[2] Reichsverfassung, Art. 12: "Dem Kaiser steht es zu, den Bundesrath und den Reichstag zu berufen, zu eröffnen, zu vertagen und zu schliessen." Art. 13: "Die Berufung des Bundesrathes und des Reichstages findet alljährlich statt und kann der Bundesrath zur Vorbereitung der Arbeiten ohne den Reichstag, letzterer aber nicht ohne den Bundesrath berufen werden." Art. 14: "Die Berufung des Bundesrathes muss erfolgen, sobald sie von einem Drittel der Stimmenzahl verlangt wird." Art. 26: "Ohne Zustimmung des Reichstages darf die Vertagung desselben die Frist von 30 Tagen nicht übersteigen und während derselben Session nicht wiederholt werden." Art. 24: ". . . Zur Auflösung des Reichstages während derselben [der Legislaturperiode von drei Jahren] ist ein Beschluss des Bundesrathes unter Zustimmung des Kaisers erforderlich." Art. 25: "Im Falle der Auflösung des Reichstages müssen innerhalb eines Zeitraumes von 60 Tagen nach derselben die Wähler und innerhalb eines Zeitraumes von 90 Tagen nach der Auflösung der Reichstag versammelt werden." Art. 69: "Alle Einnahmen und Ausgaben des Reichs müssen für jedes Jahr veranschlagt und auf den Reichshaushalts-Etat gebracht werden. Letzterer wird vor Beginn des Etatsjahres nach folgenden Grundsätzen durch ein Gesetz festgestellt." Art. 71: "Die gemeinschaftlichen Ausgaben werden in der Regel für ein Jahr bewilligt, können jedoch in besonderen Fällen auch für eine längere Dauer bewilligt werden."

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Federal Council, the members of the standing committee for naval affairs, and, with the exception of one voice, the members of the standing committee for the army and fortifications, with the limitation, however, that four states besides Prussia must be represented in both. On the other hand, he is bound to submit the propositions of each member of the Union to deliberation in the Federal Council and to lay before the Diet the resolutions of the Federal Council in the exact form and wording given to them by the Council.[1]

This is the sum and substance of the powers and duties of the Emperor in legislation. It will be seen from this that he has no immediate power to initiate legislation either in the Federal Council or the Diet, nor to veto the acts of either of these bodies. His powers in legislation would be altogether too weak to sustain his own prerogatives, except for the fact that, as King of Prussia, he is represented in the Federal Council. As King of Prussia he may, like any other German prince, initiate legislation in the Federal Council, through his delegates in that body, but not in the Diet. His delegates, like those of any other member of the Union, may appear in the Diet and explain to this body the views of the government sending them. As King of Prussia, his seventeen votes in the Federal Council enable him to veto any amendment to the constitution; and, like any other member of the Union, he can prevent the change of any of the guaranteed rights of his own state. As King of Prussia he has the casting vote in case of a tie in the Federal Council. Finally, as King of Prussia, he can veto, in the Federal Council, all projects of law which propose a change in the existing military,

[1] Reichsverfassung, Art. 15: "Der Vorsitz im Bundesrathe und die Leitung der Geschäfte steht dem Reichskanzler zu, welcher vom Kaiser zu ernennen ist . . ." Art. 8: ". . . In dem Ausschuss für das Landheer und die Festungen hat Bayern einen ständigen Sitz, die übrigen Mitglieder desselben, sowie die Mitglieder des Ausschusses für das Seewesen, werden vom Kaiser ernannt. . . . In jedem dieser Ausschüsse werden ausser dem Präsidium mindestens vier Bundesstaaten vertreten sein . . ." Art. 7: ". . . Jedes Bundesglied ist befugt, Vorschläge zu machen und in Vortrag zu bringen, und das Präsidium ist verpflichtet, dieselben der Berathung zu übergeben . . ." Art. 16: "Die erforderlichen Vorlagen werden nach Massgabe der Beschlüsse des Bundesrathes im Namen des Kaisers an den Reichstag gebracht, wo sie durch Mitglieder des Bundesrathes oder durch besondere von letzterem zu ernennende Kommissarien vertreten werden."

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naval, customs or excise system and arrangements, or in the existing administrative ordinances for the execution of the customs and excise laws.[1] The meaning of all this is simply that the King of Prussia can prevent the existing instruments of power confided, by the constitution and laws of the Empire, to the Emperor, from being withdrawn from the latter. These are very wise provisions, under existing conditions. I do not see how the Emperor would be able to discharge his great duties to the nation without them.

In the promulgation of the laws, the constitution confers upon the Emperor the powers of furnishing the bills passed by the Federal Council and the Diet with the formula of command and of proclaiming the same as law.[2] At first view these would appear to be only ministerial functions. From a consideration of the provision, alone and apart from the remainder of the instrument, one would naïvely conclude that the Emperor *must* furnish with the form of law, and proclaim as law, all bills whose passage through the Federal Council and Diet had been regularly attested by the proper officers of these bodies. But if this interpretation of the provision be the true one, then the simple majority in the Federal Council and the Diet could render nugatory the veto power of the King of Prussia in the Federal Council against attempted changes in the constitution and in the laws regulating the military, naval, customs and excise sys-

[1] Reichsverfassung, Art. 7: "Jedes Bundesglied ist befugt Vorschläge zu machen und in Vortrag zu bringen. . . . ." Art. 9: "Jedes Mitglied des Bundesrathes hat das Recht im Reichstage zu erscheinen und muss daselbst auf Verlangen gehört werden, um die Ansichten seiner Regierung zu vertreten." Art. 78 [cited above, p. 335, note]. Art. 7: ". . . Bei Stimmengleichheit giebt die Präsidialstimme den Ausschlag . . ." Art. 5: ". . . Bei Gesetzesvorschlägen über das Militairwesen, die Kriegsmarine und die im Art. 35 bezeichneten Abgaben giebt, wenn im Bundesrathe eine Meinungsverschiedenheit stattfindet, die Stimme des Präsidiums den Ausschlag, wenn sie sich für die Aufrechthaltung der bestehenden Einrichtungen ausspricht." Art. 37: "Bei der Beschlussnahme über die zur Ausführung der gemeinschaftlichen Gesetzgebung (Art. 35) dienenden Verwaltungsvorschriften und Einrichtungen giebt die Stimme des Präsidiums alsdann den Ausschlag, wenn sie sich für Aufrechthaltung der bestehenden Vorschrift oder Einrichtung ausspricht." — Art. 35 refers to the customs and excises in regard to which the Federal Council and the Diet may legislate.

[2] Reichsverfassung, Art. 17: "Dem Kaiser steht die Ausfertigung und Verkündigung der Reichsgesetze . . . zu."

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tems of the Empire, by simply calling the measures effecting these changes ordinary legislation. On the other hand, if the prerogative of the Emperor to formulate the bills as law contains the power to determine, from their content, whether they are ordinary or extraordinary legislation and to leave them unpromulgated when and in so far as, in his opinion, they have not received the majority in the Federal Council prescribed by the constitution for the class to which he may decide they belong, then we concede to the Emperor the means of blocking any bit of ordinary legislation which may be distasteful to him, by simply declaring it to be a constitutional amendment, which he, as King of Prussia, may always prevent. The commentators do not yet agree as regards the interpretation of this provision. Von Rönne, for example, holds that the question as to whether a project belongs to the class of ordinary or to that of extraordinary legislation is itself a preliminary question of constitutional interpretation and, as such, is to be determined by the Federal Council and Diet by the course of ordinary legislation, *i.e.* by simple majority, with no power of veto against it, either in the Emperor or the King of Prussia, except in case of a tie vote, when the voice of Prussia would be decisive.[1] On the other hand, Laband and Schulze teach that the guardianship of the constitution lies ultimately with the Emperor, and that the prerogative of furnishing the bills of the Council and Diet with the form of law contains the power and the duty to determine whether or no the bills have been constitutionally passed by these bodies, and of ignoring them if, in his opinion, they have not.[2] This conflict of ideas has not progressed beyond the academic stage. We await with much interest a practical issue involving the point. It appears to me that the framers of the constitution did not have this question consciously in mind and did not consciously make any provision in regard to it, but I agree with Laband and Schulze that Prussia would not at all have her proper power and position in the Imperial system if the Emperor could not exercise, in this respect, the power which they ascribe to him.

[1] Von Rönne, Deutsches Staatsrecht, II, 35.

[2] Laband, Staatsrecht des deutschen Reiches, I, 549 ff; Schulze, Lehrbuch des deutschen Staatsrechts, Zweites Theil, S. 119.

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The power of proclaiming the laws is limited by a provision of the constitution, which prescribes that they must be published in an Imperial governmental gazette and come into force fourteen days from the day of their publication, unless otherwise provided in the particular law. The Emperor has no power to delay the publication.[1]

III. *The Administrative Powers of the Emperor.* The general principle upon this subject is contained in article 17 of the constitution, which provides that the supervision of the execution of the Imperial laws shall be the right and duty of the Emperor.[2] The immediate administration of the laws, generally and in first instance, is not conferred upon the Emperor by this provision. As far as this provision goes, the Imperial laws must be primarily and immediately administered by the different state governments, under the superintendence of the Emperor. In the execution of this general power, the Emperor cannot issue his commands to the subordinate officials of the state governments. He must address himself wholly to the executive heads of these respective governments, and, if these refuse or resist or ignore the Imperial commands, he has only the remedy provided in article 19 of the constitution, which ordains that, when members of the Union fail to fulfil their constitutional duties to the Union, they may be coerced thereto. Coercion must, however, be voted by the Federal Council, before the Emperor can proceed to execute it.[3] Any immediate powers of administration, in first instance, possessed by the Emperor

[1] Reichsverfassung, Art. 2: ". . . Die Reichsgesetze erhalten ihre verbindliche Kraft durch Verkündigung von Reichswegen, welche vermittelst eines Reichsgesetzblattes geschieht. Sofern nicht in dem publicirten Gesetze ein anderer Anfangstermin seiner verbindlichen Kraft bestimmt ist, beginnt die letztere mit dem vierzehnten Tage nach dem Ablauf desjenigen Tages, an welchem das betreffende Stück des Reichsgesetzblattes in Berlin ausgegeben worden ist.

[2] Reichsverfassung, Art. 17: "Dem Kaiser steht . . . die Ueberwachung der Ausführung derselben [*i.e.* der Reichsgesetzen] zu."

[3] Reichsverfassung, Art. 19: "Wenn Bundesglieder ihre verfassungsmässigen Bundespflichten nicht erfüllen, können sie dazu im Wege der Execution angehalten werden. Diese Execution ist vom Bundesrathe zu beschliessen und vom Kaiser zu vollstrecken." *Cf.* Laband, in Marquardsen's Handbuch, Staatsrecht des deutschen Reiches, S. 102 ff.

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are exceptions to the general rule and must be found in special provisions of the constitution or in the laws of the Imperial legislature made in accordance with the constitution.[1] These extraordinary powers in the domain of the civil administration comprehend:

(1) The supervision of the collection of the imperial taxes. The constitution provides, upon this subject, that the Emperor shall supervise the collection of the Imperial taxes by the state officials through Imperial officials, whom he may co-ordinate with the state officials. That is, the Emperor is not confined to transactions between himself and the heads of the respective state governments in the collection of the taxes, but may, through his own agents, inspect the operations of the state officials and make report thereof to the Federal Council, in order that this body, in case it should become necessary to coerce a state to the proper discharge of its duties to the union, may be placed in possession of the necessary information from Imperial sources.[2] This provision does not apply to the collection of the excise duties upon whiskey and beer in Bavaria, Württemberg and Baden. In these states, the Emperor can supervise the administration, in this respect, only according to the general rule as above stated, if at all.[3]

(2) The direction of the postal and telegraphic administration of the Empire. The constitution provides that the Emperor shall have the "superior direction" of the postal and telegraphic administration of the Empire; that he shall have the power to make the rules and regulations for the same; that he shall appoint all the officers necessary to administer this superior

[1] Laband, in Marquardsen's Handbuch, Staatsrecht des deutschen Reiches, S. 102 ff.

[2] Reichsverfassung, Art. 36: "Die Erhebung und Verwaltung der Zölle und Verbrauchssteuern bleibt jedem Bundesstaate, soweit derselbe sie bisher ausgeübt hat, innerhalb seines Gebietes überlassen. Der Kaiser überwacht die Einhaltung des gesetzlichen Vefahrens durch Reichsbeamte, welche er den Zoll- oder Steuerämtern und den Direktivbehörden der einzelnen Staaten, nach Vernehmung des Ausschusses des Bundesrathes für Zoll- und Steuerwesen, beiordnet. Die von diesen Beamten über Mängel bei der Ausführung der gemeinschaftlichen Gesetzgebung (Art. 35) gemachten Anzeigen werden dem Bundesrathe zur Beschlussnahme vorgelegt."

[3] Reichsverfassung, Art 35: ". . . In Bayern, Württemberg und Baden bleibt die Besteuerung des inländischen Branntweins und Biers der Landesgesetzgebung vorbehalten . . ."

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direction; and that all the officers employed in the service are bound to obey the Imperial orders. On the other hand, the constitution reserves to the states the appointment of all other officers of the postal and telegraphic service not included under the class of superior directive officers.[1] Again, Bavaria and Württemberg, except in time of war, are exempted from the administrative powers of the Emperor.[2]

(3) The Emperor may fix the railroad tariffs upon certain articles of food in time of famine and distress. The constitution provides, in this respect, that in times of distress, especially when food becomes extraordinarily dear, the railroads shall transport grain, flour, potatoes and other vegetables at special low rates fixed by the Emperor, upon recommendation of that committee of the Federal Council in whose sphere the subject falls. The rates cannot, however, be placed lower than the lowest charge made by the particular road for raw products.[3] Bavaria, again, is exempted from this power of the Emperor.[4]

[1] Reichsverfassung, Art. 50: "Dem Kaiser gehört die obere Leitung der Post- und Telegraphenverwaltung an . . . Dem Kaiser steht der Erlass der reglementarischen Festsetzungen und allgemeinen administrativen Anordnungen, sowie die ausschliessliche Wahrnehmung der Beziehungen zu anderen Post- und Telegraphenverwaltungen zu. Sämmtliche Beamte der Post- und Telegraphenverwaltung sind verpflichtet, den kaiserlichen Anordnungen Folge zu leisten. Diese Verpflichtung ist in den Diensteid aufzunehmen. Die Anstellung der bei den Verwaltungsbehörden der Post und Telegraphie in den verschiedenen Bezirken erforderlichen oberen Beamten (z. B. der Direktoren, Räthe, Ober-Inspektoren), ferner die Anstellung der zur Wahrnehmung des Aufsichts- u. s. w. Dienstes in den einzelnen Bezirken als Organe der erwähnten Behörden fungirenden Post- und Telegraphenbeamten (z. B. Inspektoren, Kontroleure) geht für das ganze Gebiet des deutschen Reichs vom Kaiser aus, welchem diese Beamten den Diensteid leisten . . . Die anderen bei den Verwaltungsbehörden der Post und Telegraphie erforderlichen Beamten, sowie alle für den lokalen und technischen Betrieb bestimmten, mithin bei den eigentlichen Betriebsstellen fungirenden Beamten u. s. w. werden von den betreffenden Landesregierungen angestellt."

[2] Reichsverfassung, Art. 52: "Die Bestimmungen in den vorstehenden Art. 48 bis 51 finden auf Bayern und Württemberg keine Anwendung . . ."

[3] Reichsverfassung, Art. 46: "Bei eintretenden Nothständen, insbesondere bei ungewöhnlicher Theuerung der Lebensmittel, sind die Eisenbahnverwaltungen verpflichet, für den Transport, namentlich von Getreide, Mehl, Hülsenfrüchten und Kartoffeln, zeitweise einen dem Bedürfniss entsprechenden, von dem Kaiser auf Vorschlag des betreffenden Bundesraths-Auschusses festzustellenden, niedrigen Specialtarif einzuführen, welcher jedoch nicht unter dem niedrigsten auf der betreffenden Bahn für Rohprodukte geltenden Satz herabgehen darf . . ."

[4] Reichsverfassung, Art. 46: ". . . Die vorstehend, sowie die in dem Art. 42 bis 45 getroffenen Bestimmungen sind auf Bayern nicht anwendbar."

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The constitution empowers the Imperial legislature to authorize the construction of Imperial railways for defence and general intercourse. Such railways would naturally be administered immediately by the Emperor, but an act of the legislature would be necessary to confer upon him this power.[1]

(4) The extraordinary powers of the Emperor in civil administration comprehend, lastly, the immediate local government of Alsace-Lorraine. This power of the Emperor does not rest upon a provision of the constitution, but upon a law passed by the Imperial legislature on the 9th of June, 1871, which provides that the Emperor shall exercise the powers of government in Alsace-Lorraine.[2] By virtue of this Imperial law, the Emperor controls the special legislation for Alsace-Lorraine, in so far as it is not exercised by the Imperial legislature itself, and directs immediately the local administration therein.[3]

The Emperor appoints and dismisses all the officials employed in his ordinary or extraordinary administration;[4] but all of his orders to them or acts in regard to them must be issued in the name of the Empire and require for their validity the signature of the Chancellor — a rule which preserves the irresponsibility of the Emperor.[5] The exception to this general principle is the case of the judicial officers of the Empire. These are appointed by the Emperor, but upon nominations made by the Federal Council; and they hold, as against the Emperor, for life.[6]

[1] Reichsverfassung, Art. 41: "Eisenbahnen, welche im Interesse der Vertheidigung Deutschlands oder im Interesse des gemeinsamen Verkehrs für nothwendig erachtet werden, können kraft eines Reichsgesetzes auch gegen den Widerspruch der Bundesglieder, deren Gebiet die Eisenbahnen durchschneiden, unbeschadet der Landeshoheitsrechte, für Rechnung des Reichs angelegt . . . werden."

[2] Reichsgesetzblatt, 1871, No. 25, S. 212: "Die Staatsgewalt in Elsass und Lothringen übt der Kaiser aus."

[3] Leoni, Staatsrecht der Reichslande Elsass-Lothringen, in Marquardsen's Handbuch des öffentlichen Rechts, S. 230 ff.; Schulze, Lehrbuch des deutschen Staatsrechts, Zweites Theil, 377 ff.

[4] Reichsverfassung, Art. 18: "Der Kaiser ernennt die Reichsbeamten, lässt dieselben für das Reich vereidigen, und verfügt erforderlichen Falls deren Entlassung . . ."

[5] Reichsverfassung, Art. 17: ". . . Die Anordnungen und Verfügungen des Kaisers werden im Namen des Reichs erlassen und bedürfen zu ihrer Gültigkeit der Gegenzeichnung des Reichskanzlers, welcher dadurch die Verantwortlichkeit übernimmt."

[6] Gerichtsverfassungsgesetz, § 127: "Der Präsident, die Senatspräsidenten und die Räthe werden auf Vorschlag des Bundesrathes von dem Kaiser ernannt." *Ibid.*, § 6: "Die Ernennung der Richter erfolgt auf Lebenszeit.

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The Emperor's power to appoint the judges rests upon a law made by the Imperial legislature, not upon the constitution. The constitutional provision in reference to this subject simply empowers the Imperial legislature to establish the judicial system of the Empire.[1]

In the sphere of military administration, the constitution is more generous to the Emperor. This is both natural and necessary. In the military organization of the state, federalism is out of place. Here the strictest centralization is the true principle of a rational and practical polity. Nevertheless this principle has not yet been fully realized in the German system.

(1) The constitution vests in the Emperor the command of the army of the whole Empire in time both of war and peace.[2] It binds the entire soldiery to render unconditional obedience to the commands of the Emperor.[3] It empowers the Emperor to organize the army,[4] to appoint all the officers commanding a contingent or more than one contingent or a fortification, and makes the appointment of the generals within the contingents by the governments of the respective states dependent upon the Emperor's approval.[5] Officers lower than generals are appointed by the state governments independently. These are the general rules, but there are exceptions to them in the cases both of Bavaria and of Württemberg.

The Bavarian troops form one consolidated component part of

[1] Reichsverfassung, Art. 4, alinea 13: "Der Beaufsichtigung Seitens des Reichs und der Gesetzgebung desselben unterliegt . . . das gerichtliche Verfahren."

[2] Reichsverfassung, Art. 63: "Die gesammte Landmacht des Reichs wird ein einheitliches Heer bilden, welches in Krieg und Frieden unter dem Befehle des Kaisers steht . . ."

[3] Reichsverfassung, Art. 64: "Alle deutsche Truppen sind verpflichtet, den Befehlen des Kaisers unbedingte Folge zu leisten . . ."

[4] Reichsverfassung, Art. 63: ". . . Der Kaiser bestimmt den Präsenzstand, die Gliederung und Eintheilung der Kontingente des Reichsheeres, sowie die Organization der Landwehr, und hat das Recht, innerhalb des Bundesgebietes die Garnisonen zu bestimmen . . ."

[5] Reichsverfassung, Art. 64: "Der Höchstkommandirende eines Kontingents, sowie alle Offiziere, welche Truppen mehr als eines Kontingents befehligen, und alle Festungskommandanten werden von dem Kaiser ernannt. . . . Bei Generalen und den Generalstellungen versehenden Offizieren innerhalb des Kontingents ist die Ernennung von der jedesmaligen Zustimmung des Kaisers abhängig zu machen.

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the German Army. The Bavarian King appoints all the officers thereof, independent of Imperial ratification. The Bavarian troops are under the exclusive command of the Bavarian King in time of peace, but from the beginning of mobilization for war they come under the superior command of the Emperor and are bound to render absolute obedience to the Emperor from such moment until the re-establishment of peace.[1] Mobilization proceeds upon order from the Emperor, but the order must be addressed to the Bavarian King, and made by him immediately to the Bavarian troops.[2] If the Bavarian King should refuse or fail to transmit the Imperial order, the only remedy in the hands of the Emperor is that provided in article 19 of the constitution, to which I have already referred, *viz.* coercion voted by the Federal Council and executed by the Emperor. The Emperor has the power and the duty to inspect the Bavarian troops at any time.[3]

The Württemberg troops form one consolidated army corps under the immediate command of the King of Württemberg, but under the superior command of the Emperor in time both of war and peace. The King of Württemberg appoints all the officers of this corps, except the commanders of fortifications, but his appointments of the commanders-in-chief must be ratified by the Emperor. The Württemberg troops owe unqualified obedience to the commands of the Emperor; but, in time of peace, the Emperor has no power to order the Württemberg troops out of Württemberg or other troops into Württemberg, without the consent of the King of Württemberg, except for the purpose of garrisoning South-German or West-German fortifications. The Emperor has the power and duty to inspect the Württemberg troops at any time.[4]

(2) The constitution vests in the Emperor the superior command of the navy. It empowers him with the authority to

[1] Bündniss-Vertrag mit Bayern von 23 Nov. 1870, dem Art. 68 der Reichsverfassung zugesetzt.

[2] *Ibid.* [3] *Ibid.*

[4] Militair-Konvention mit Württemberg, von 21 und 25 Nov. 1870, dem Art. 68 der Reichsverfassung zugesetzt.

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organize the navy, to appoint all of its officers and to require from all the officers and men the oath of obedience.[1]

(3) The constitution confers upon the Emperor the power to establish fortifications within the territory of the Empire,[2] except in Bavaria.[3]

(4) The constitution empowers the Emperor, in case of insurrection or rebellion in any part of the Empire, to declare that part in a state of siege, *i.e.* to govern therein, for the time being, as commander-in-chief of the army and through the officers of the army.[4] Bavaria is exempted from the operation of this power.[5]

Such is the character of the German *imperium*. It impresses us, in some respects, as a strong organ of centralized government; in others, as a weak organ of confederatized government. It is full of the spirit of conservatism, and well regulated by law. Its constitution guards it well against personal arbitrariness or vacillation on the part of the Emperor or the princes, or fickleness and violence on the part of the people. It is Europe's best guaranty of peace through the power to enforce peace. In a sentence, it is a constitutional presidency; and if it needs any reform, it is in the direction of more strength rather than less.

JOHN W. BURGESS.

[1] Reichsverfassung, Art. 53: "Die Kriegsmarine des Reichs ist eine einheitliche unter dem Oberbefehl des Kaisers. Die Organization und Zusammensetzung derselben liegt dem Kaiser ob, welcher die Offiziere und Beamten der Marine ernennt, und für welchen dieselben nebst den Mannschaften eidlich in Pflicht zu nehmen sind . . ."

[2] Reichsverfassung, Art. 65: "Das Recht, Festungen innerhalb des Bundesgebietes anzulegen, steht dem Kaiser zu . . ."

[3] Bundniss-Vertrag mit Bayern von 23 Nov. 1870.

[4] Reichsverfassung, Art. 68: "Der Kaiser kann, wenn die öffentliche Sicherheit in dem Bundesgebiete bedroht ist, einen jeden Theil desselben in Kriegszustand erklären . . ."

[5] Bundniss-Vertrag mit Bayern von 23 Nov. 1870.

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REVIEWS.

Das englische Armenwesen in seiner historischen Entwicklung und in seiner heutigen Gestalt. Von Dr. P. F. ASCHROTT, Gerichts-Assessor in Berlin. [Staats- und socialwissenschaftliche Forschungen, herausgegeben von Gustav Schmoller, V, 4.] 1886. — 450 pp.

Die deutsche Armengesetzgebung und das Material zu ihrer Reform. Von Dr. EMIL MÜNSTERBERG, Gerichts-Assessor in Berlin. [Staats- und socialwissenschaftliche Forschungen, herausgegeben von Gustav Schmoller, VI, 4.] 1887. — 570 pp.

Professor Schmoller has rendered a great service to all who are interested in poor laws by publishing these two valuable treatises in his *Forschungen*. Dr. Aschrott's book is the most complete treatment of the English poor law since Sir George Nicholls' history, published in 1854, while Dr. Münsterberg's book is a still more thorough and detailed investigation of certain phases of the German poor laws.

The scope of the two books, as indicated by the titles, is somewhat different. Dr. Aschrott has aimed to give an objective, impartial view of the English poor law and its development. It is only in exceptional cases that he makes any criticisms or suggestions of his own. Dr. Münsterberg, on the other hand, is critical throughout, and devotes more than a third of his space to a discussion of the various plans that have been recently proposed for the reform of the law.

Dr. Aschrott has followed for the English poor law the method adopted by Professor Gneist for the treatment of the general administration in the earlier editions of his *Englisches Verwaltungsrecht;* that is to say, he first gives an historical account of the gradual development of the present law, and then treats systematically of the law in its present condition. There is, therefore, a certain amount of repetition in the book. In many cases the contents of the same act are summarized in both parts. This, however, is not a blemish, for it adds greatly to the clearness of the treatment. In the historical part very little space is given to English legislation before the act of the 43d of Elizabeth. This whole subject is, in fact, treated so fully by Sir George Nicholls that a repetition in the present work was unnecessary, and the author was able to give more attention to recent legislation.

The history of the English poor law has that peculiar fascination which attaches to the history of all English institutions, in that legislation

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proceeded slowly on the basis of experience, so that the institutions of any one period represent the result of a gradual development which can be traced step by step in history. Even the great poor law of Elizabeth, which is generally considered the starting point of English pauper legislation, had the way prepared for it by a series of laws beginning in the reign of Henry VIII. This law was as remarkable for what it omitted as for what it contained. The strict suppression of vagabonds by brute force, which had been so prominent a feature of earlier legislation, was entirely left out of account in the poor law of 1601. This law provided, instead of that, measures for counteracting the causes of pauperism. Children were to be apprenticed; those who were able to work were to be set at work, and those who were unable were to be supported by the parish. This law made as yet no provision for what has been since regarded as one of the most characteristic features of the English system, *i.e.* the English workhouse; but it laid down the general principles of relief which, in spite of many modifications of detail, are still adhered to. The workhouse was first brought up for public discussion in 1646, and first established with the sanction of the law in 1697 in Bristol. In 1723 a general permission was given to introduce workhouses in all of the parishes. During the last century the strict administration of the law, as instituted by Elizabeth, was largely departed from. The view came to prevail that all persons who were poor, whether destitute or not, were entitled to relief, and the Gilbert act of 1782, though containing many excellent provisions, soon led to the adoption of the allowance system, under which men earning low wages received a supplement from the rates. This humanitarian tendency was so strong that even a statesman like William Pitt committed himself to the proposition that every poor person should be provided with a cow or a pig or some other useful domestic animal, and it was only after the sharp criticisms passed upon this bill by Jeremy Bentham that it was withdrawn.

The costly abuses that resulted from this kind of legislation were reformed by the law of 1834, which marks a turning-point in English legislation. It was distinctly laid down at that time as a fundamental principle, "That the condition of the pauper ought to be on the whole less eligible than that of the independent laborer." As a result the rule has been that relief to the able-bodied should only be given, unless in exceptional cases, in the workhouse, and that only the infirm should be relieved in their dwellings.

This law of 1834 also introduced an important feature into the administration by the creation of a central Poor-Law board. This was originally a merely provisional arrangement, and the commissioners were to exercise their functions for but five years. They were continued, however, at the expiration of that term, and some central authority has

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thus always been retained. In 1847 the Poor-Law board was enlarged, and some of its members allowed to sit in Parliament. It thus became an integral part of the English administrative system, and in 1871 its powers were entrusted to the new Local Government board.

The changes that have been made in the administration of the English poor law during the past twenty-five years have been mainly in the direction of greater specialization. The workhouse has no longer been considered the sovereign remedy for all forms of pauperism; the laws have gradually eliminated from it (1) the children, to whom the surroundings were most detrimental; (2) the sick, who could not receive such care as they ought to have excepting in an hospital; and (3) the so-called "casual paupers." or tramps, for whom special "casual wards" have been instituted.

The English poor law, as it exists at the present day, recognizes the duty of the local subdivisions of the state to care for their poor. The unit, however, is no longer the parish, as formerly, but the union; and in the metropolis special arrangements have been made, particularly through the creation of the Metropolitan Common Poor fund, in order to distribute the burden of relief over a larger territory and to prevent the poorer divisions from being overcharged. Those who are entitled to relief are the destitute only, and the rule is that it shall be given as far as possible in a workhouse rather than to the pauper directly, and that where given directly it shall be given in the form of supplies or medicines rather than in the form of money. This principle, however, is applied with a good deal of elasticity, and the extent to which it is carried out depends largely upon the ideas of the local authorities.

The administration is more centralized, probably, than that of any other country of Europe. The Local Government board watches carefully, through its inspectors, the action of the local authorities. These local authorities consist of the guardians, the overseers, and the relieving officers. The peculiar combination of paid and unpaid officers which is seen in so many English institutions is carried out here. The guardians, who have the chief authority with regard to granting relief, and the overseers, whose duties are now mainly confined to assessing the poor rates, are unpaid officers. The relieving officer — that is to say, the person to whom applications are made by the poor — and the clerk of the board of guardians receive salaries. Dr. Aschrott regards this arrangement as eminently practical and satisfactory, and on the whole, considers the English poor law as a model, though criticizing somewhat its treatment of casual paupers, and other details.

The question of settlement, which first came up through the enactment of the law of 1662, has lost much of its former importance by the combination of parishes into unions, and by the erection of county

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asylums and hospitals. The individual parishes are, therefore, no longer under the constant temptation of closing their gates against new-comers lest they should become a charge upon the rates.

In this respect England is to be greatly congratulated, for it is this very question of settlement, involving, as it does, the fruitful topics of *Freizügigkeit* and *Unterstützungswohnsitz*, which is still the burning question in Germany at the present day. In fact, Dr. Münsterberg's book might be characterized as an elaborate and learned discussion of this one topic.

The formation of the North German confederation, in 1867, resulted in the passage of two important laws. The constitution had already provided for common German citizenship, so that a citizen of one of the confederated states was not to be treated as a foreigner in any of the other states. This principle was put into practical execution by means of the *Freizügigkeitsgesetz* of November 1, 1867, and the *Unterstützungswohnsitzgesetz* of June 6, 1870. The former gave every citizen of the confederation the right to settle in any place in which he had a dwelling or was able to obtain one, leaving, however, the existing laws in force with regard to the settlement of convicts and vagrants. The township, under this law, is allowed to prevent the settlement of a person only in case it can prove that he has not the means to support himself and his dependent relatives, or that he cannot obtain such support from some relative who is legally obliged to give it. No town can refuse settlement to a person on account of the fear of future destitution.

More important was the law of settlement which was adopted after a very thorough discussion in 1870. According to this law, every citizen of the German confederation is to be treated in every state like the citizens of that state with regard to public relief; this relief is given either by local territorial units (*Ortsarmenverbände*), or by larger districts (*Landarmenverbände*); a settlement can be obtained either by marriage, birth, or residence; whoever lives in a place for two consecutive years after his twenty-fourth year without becoming a public charge, acquires a settlement, and this settlement is lost either by the acquisition of a new settlement or by an uninterrupted absence of two years.

The cost of caring for the poor is to be borne by the place of settlement, if the pauper has a settlement, but if not, by the Landarmenverband in whose territory he happens to be at the time of his destitution. The Ortsarmenverbände are made up either of one or several towns. The formation of the Landarmenverbände had to be left to the action of the individual states composing the empire on account of the differences existing in their systems of local government. Thus we find that in some the state itself constitutes the Landarmenverband, while in others, one or more of the previously existing territorial subdivisions, such as

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provinces, districts, *etc.*, are utilized for this purpose. In fact, the imperial legislation leaves almost all of the details of relief to the individual states.

Upon the formation of the German empire, both of these laws were incorporated into its legislation; but some of the new territories which were joined to the confederation to make the empire had systems of settlement so different from those prevailing in the states of the confederation that it was impossible to subject them to the new legislation. The consequence is that both Bavaria and Alsace-Lorraine were excepted from the operation of the law of settlement. There is thus no uniform system for the whole of the empire, but there are really four systems: (1) the German system, as already explained in connection with the law of 1870; (2) the Bavarian system; (3) the system of Alsace and Lorraine, *i.e.* the voluntary system which they brought from France; and (4) the system of the Bavarian Palatinate, which differs in some minor points from that of Bavaria proper.

The discussion of proposed measures of reform takes up over 200 pages of the book, and contains much valuable matter. These proposals are, as might be supposed, very various as well as numerous. Some advocate giving the entire care of the poor to the state as distinguished from the local authorities. Others would return to the system of *Heimath* as it exists in Bavaria, thus enlarging the importance of local action. Others, again, while leaving the care of the poor in the hands of local authorities, would make the territorial divisions larger than they are, grouping a number of the present units together, somewhat as the parishes are grouped in unions in England. Others favor the exercise of greater coercion, both as against the individual paupers, in order to force them to work, and as against the local authorities, in order to force them to do their duty, and prevent the practice of *Abschiebung*, *i.e.* "shunting off" their paupers upon other communities. In addition to these important and fundamental proposals there have been numerous plans for changing some of the details of the present administration. Without going into further particulars, it may be said that the author praises, on the whole, the present system, though acknowledging that in some of its details it might possibly be improved.

The discussion of these questions is conducted in a broad spirit, and is fortified with illustrations drawn from the experience of many nations. Many of the points treated are of considerable interest to Americans, because the practical problems that confront us are so similar to those that are being debated in Germany. The foreign reader cannot, however, lay down the book without a feeling of regret that the author did not choose to give a more concrete and specific account of some of the interesting features of German poor-relief, rather than to discuss

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questions of principle with such very great fulness. Thus it is only incidentally that mention is made of the Elberfeld system; and many other of the details of the administration are only to be found scattered through the foot-notes. Fortunately, the author has provided us to a certain extent with the facilities for seeking information elsewhere. The work contains a very full bibliography, lucidly arranged, and is also equipped with what is always a pleasant surprise in a German book — an alphabetical index.

HENRY W. FARNAM.

An Inquiry into Socialism. By THOMAS KIRKUP. Longmans, Greene & Co., London and New York, 1887. — 188 pp.

This book furnishes another indication of the hold which democratic and semi-socialistic opinions are obtaining in England. Its author wrote the historical article on socialism in the last edition of the *Encyclopædia Britannica*. In the essay before us he aims "to bring out what is fundamental in socialism, both as contrasted with the prevailing social system and with theories for which it is usually mistaken." He defines socialism to be "democracy in politics; unselfishness, altruism in Christian ethics; in economics the principle of co-operation or association." Or again:

> The theory of socialism therefore is that the present economic order . . . must and ought to pass away; and that it will give place to an economic system in which industry will be conducted with a collective capital and by associated labor, with a view to an equitable system of distribution.

These definitions show that the author has attained a breadth of view necessary to an impartial treatment of the subject. This Mr. Kirkup has, on the whole, succeeded in giving us. It is at least more satisfactory than any other attempt yet made in English. He is certainly right in not regarding the modern socialist movement as an organized conspiracy for the destruction of all that is best in existing civilization. It is rather a necessary growth from the moral, industrial, and political conditions of the present. It is not a manifestation of human folly and depravity, but a factor in a great process of social evolution. Mr. Kirkup shows this by briefly reviewing the growth of socialistic ideas since the first French revolution, and by showing how they have been the necessary accompaniments of the modern industrial system. He believes that none of the really valuable institutions of society are imperilled by it, neither the family, the church, nor the right of property. On the other hand it seems to him probable that the ethical

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element upon which they rest will be made more prominent and influential.

The power of the principle of self-help as a spur to enterprise is admitted, but it is also claimed that the development of the present social system has occurred under very favorable conditions. It is not probable that two inventions will ever again be made so important in their results as those of the steam engine and the electric telegraph. Then as soon as they were made, the American continent was opened for exploitation. Such opportunities for success are very rare. With them, progress under any system would be rapid. Among the evils which the author enumerates as connected with the competitive system are the degradation of the laborer; the fluctuations of trade, which make the position of both capitalist and laborer insecure; waste in all stages and departments of production and distribution; crises; the lowering of moral tone, and development of parasitic or unproductive classes. All that tends to counteract these evils, whether it proceeds from the state or from private and corporate enterprise, is to be welcomed.

Mr. Kirkup does not identify socialism with state-ism. He is a federalist in economics rather than a state socialist. He looks for help to the institutions of local, rather than of central government. In this respect he is thoroughly English. He adopts the ideals of Mill. From this standpoint he seeks to meet the objection that socialism is utopian, because no central authority could control interests so enormous as are involved in the industrial life of modern society. He evidently expects more from the development of co-operation than from direct interference by the state. Mr. Kirkup does well to qualify his somewhat rosy view of the prospects of socialistic schemes with such remarks as the following:

> When we consider the fatal prevalence of egotism, improvidence, and folly in human nature and in human history, doubt as to the general realization of the system is only too legitimate. Without a great moral advance socialism may be regarded as impracticable.

It is noteworthy that he sees in the development of great corporations run by paid superintendents a step towards socialistic production and a pledge of its future success. He is ready to admit that the social order of the future will be neither wholly socialistic or individualistic, but a combination of the two.

Mr. Kirkup shows that he is well grounded in the highest and broadest thought of the age respecting socialism. His book, therefore, is to be welcomed as an effort to give English-speaking people opinions and reasonings upon the subject of a higher order than they have hitherto been able to find in their own language.

H. L. OSGOOD.

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Der natürliche Arbeitslohn. Von Dr. CONRAD SCHMIDT. Jena, Gustav Fischer, 1887. — 8vo, 87 pp.

Untersuchungen über den Preis des Getreides, mit besonderer Rücksicht auf den Nährstoffgehalt desselben. Von JOHANNES HANSEN, Jena, Fischer, 1887. — 8vo, 87 pp.

Geldwerth und Preisbewegung im deutschen Reiche: 1871–1884. Von Dr. FRANZ KRAL. Mit einer Einleitung über die *Methode der statistischen Erhebung von Geldmenge und Geldbedarf*, von Dr. F. X. von NEUMANN-SPALLART. Jena, Fischer, 1887. — 8vo, 111 pp.

Die Haushaltung der arbeitenden Klassen. Von IGNAZ GRUBER. Jena, Fischer, 1887. — 8vo, 179 pp.

Statistische Untersuchungen über den Einfluss der Getreidepreise auf die Brotpreise und dieser auf die Löhne. Von Dr. GUSTAV KARL METZLER. Jena, Fischer, 188[illegible].

There is no lack of scientific investigation in Germany. For the last ten or fifteen years we have had no less than three separate sets of publications, composed mainly of doctors' dissertations; *viz.*, the series edited by Professor Schmoller, the series edited by Professor Conrad, and the publications of the Verein für Socialpolitik. During the past year a fourth series has been inaugurated, which, in point of number at least, promises to far surpass those already existing. The project is a huge one. It is proposed to publish the chief theses which may be the outcome of the *seminar*-work of no less than twenty prominent professors in Germany and Austria. The series is known as the *Staatswissenschaftliche Studien*, edited by Professor Elster, of Königsberg, in conjunction with Professors Baumstark, Böhm-Bawerk, Gustav Cohn, Eheberg, Helferich, Inama Sternegg, Laspeyres, Lexis, Menger, Miaskowski, Neumann, Neumann-Spallart, Paasche, Pierstorff, Roscher, Schanz, Schönberg, Stieda, Umpfenbach, and Wagner — almost each one of whom has an international reputation.

The five theses which have already appeared are naturally of unequal value. Schmidt's *Der natürliche Arbeitslohn* is merely a literary history of the doctrine of the wages fund and the natural law of wages, including Thünen's law. The critical history is well done, but the positive, constructive side of the essay is weak. It cannot be said that it makes any addition to our knowledge. Hansen's *Untersuchungen* is primarily of importance for German agronomy, and presents little of interest to American scholars. His conclusion is that the culture of wheat will

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gradually be replaced by that of rye. Dr. Metzler's *Statistische Untersuchungen* is likewise mainly of continental interest, and has a close connection with the free-trade controversy. It is, however, a careful piece of work. Gruber's *Die Haushaltung der arbeitenden Klassen* is of more importance. It is a detailed statistical investigation into the expenses of a number of typical families among the laborers, chiefly of Germany and Austria, partly of France and Italy. In the main the study corroborates the principles laid down by Engel, although serious doubt is cast on that part of Engel's law according to which the expenses for food increase in geometrical but inverse ratio to the prosperity of the laborer. Gruber's conclusion on the whole is not a very encouraging one. He formulates it as follows:

> That the wage income of the laborer alone is insufficient for the family's maintenance, and that labor as the single source of income (under present conditions) does not suffice for the permanent support of the laborer. [Page 73.]

This conclusion tends to cast some discredit on the methods pursued, and is in itself open to much question.

The most valuable of the theses is Kral's *Geldwerth und Preisbewegung*. Professor Neumann-Spallart, the renowned statistician, contributes an interesting introduction, in which he gives a short *résumé* of the theories as to the influence of money on prices, especially Law's theory, Ricardo's "quantity" theory, and the currency theory. He shows that the real influence of money on prices can be ascertained only by a careful statistical inquiry into the following factors:

1. The quantity of real money (coin and legal tender) in circulation.
2. The rapidity of circulation.
3. The development of credit in all its forms.
4. The barter transactions, which may still exist.
5. The need of a circulating medium, as measured by the actual trade in commodities as well as the "rapidity of circulation" of these commodities.
6. The need of coin reserves and other "hoards."

Spallart sums up these factors in an algebraical formula. He made them the subject of his *seminar*-work in 1886, and the essay before us is one result of the investigations, Herr Kral having taken Germany for his field of inquiry. Other students are working up other countries and periods. The investigation of Kral is a fairly thorough one, and seems to justify his conclusions, which are as follows:

1. The increased demand for money in Germany since 1871, as measured by the increase in the several factors of national prosperity, has been more than met by the increased supply, taken in conjunction with the development of credit and the increased rapidity of circulation.

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2. The symptoms of a dearth of money have not yet made their appearance, for (*a*) wages have not fallen; (*b*) prices indeed have fallen, but this is due to causes inherent in the commodities themselves; (*c*) the rate of discount has fallen.

Especially good is the proof that the fall of prices is not due to a scarcity of gold, but to causes peculiar to the commodities themselves, and entirely independent of the circulation medium. The tables used are Hamburg tables, which, as is well known, were also the basis of Soetbeer's investigations. Kral's essay is thus of great value for the bi-metallic discussion; for his conclusions, like those reached by others who pursue a more purely deductive method, seem to show that the great bugbear of the bi-metallists, the scarcity of gold, is in truth a mere figment of the imagination. One great argument for bi-metallism would thus fall away.

From the monographs that have already appeared, it may be inferred that the series will be one of lasting value.

EDWIN R. A. SELIGMAN.

Archiv für soziale Gesetzgebung und Statistik. Vierteljahresschrift zur Erforschung der gesellschaftlichen Zustände aller Länder. In Verbindung mit einer Reihe namhafter Fachmänner des In- und Auslandes herausgegeben von Dr. HEINRICH BRAUN. Erster Jahrgang, Erstes Heft. Tübingen, Verlag der H. Laupp'sche Buchhandlung. — 8vo, 200 pp.

The Germans desire to specialize still further the periodical literature of the social sciences. Starting with the *Zeitschrift für die gesammte Staatswissenschaft*, we already have Conrad confining himself to *Nationalökonomie und Statistik*, and a few years ago Schanz started a *Finanzarchiv*. The new quarterly is to devote itself exclusively to the labor question, for the word *sozial* is to be taken in its narrower sense, and refers to legislation for, and statistics of, the lower classes.

The first number fulfils the promise of the title, both as to specialization of investigation and as to the international extent of the field. There are five leading articles. Professor Platter, of Zurich, criticizes the new German compulsory insurance of workmen against old age and sickness, on the ground that it simply rolls off the burden of poor relief from the propertied classes upon the workmen themselves. Dr. Baernreither summarizes three recent English blue-books, on trade unions, on the condition of the poor in London, and on the sweating system. Dr. Pringsheim describes the distressing condition of factory hands in Holland. Dr. Oldendorf collates the recent statistics of infant mortality. Professor Erismann gives the results of anthropometrical investigation

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of the factory operatives in Russia. There are, in addition, texts (or translations) of the German insurance law, the Swiss employers' liability act of 1887, and the project of a Dutch law for the protection of children. Two minor articles and two elaborate book reviews complete the number.

The new review promises to be of great value to those who desire to follow the investigations concerning the condition of the laboring class and the labor legislation in the different countries of Europe. Most of the articles are commentaries on such investigations or legislation. Some of them possess original value. Such, for instance, is the article on the Russian factory operatives. Dr. Erismann and his colleagues took statistics of over a hundred thousand men, women, and children, employed in the factories of the government of Moscow. Their investigations covered measurements of height, size of chest, weight, and muscular strength, and give us most interesting anthropometrical results, which in a succeeding number are to be coupled with influence of employment, *etc.* It is curious to notice that the men are only five feet five inches in height, with a thirty-four inch chest, and the women only five feet, with a thirty-two inch chest. A series of diagrams present the changes in height and chest-girth from childhood to old age.

The typographical appearance of the *Archiv* is excellent, much superior to that of most of the German periodicals; and the articles are shorter and more lucid that we are accustomed to expect from German scientists.

RICHMOND M. SMITH.

The Census of Massachusetts: 1885. Prepared under the direction of CARROLL D. WRIGHT, Chief of the Bureau of Statistics of Labor. Volume I. *Population and Social Statistics,* Part I. Boston, 1887. — 8vo, xci, 685 pp.

Eighteenth Annual Report of the Bureau of Statistics of Labor. December, 1887. Boston, 1887. — 8vo, 294 pp.

The census of Massachusetts for 1885, now being published, deserves notice not only for the care with which it was taken under the direction of the skilled officers of the bureau of statistics of labor, but on account of the marked advance in statistical methods and results. The card system was employed, each individual of the commonwealth having one card devoted to him on which all the facts — sex, age, place of birth, parentage, occupation *etc.* — were entered. The advantage of this method is that the cards can be arranged and rearranged at pleasure to follow out any particular fact and correlate it with other facts. If I wish to know, for instance, in what occupations the Irishmen between the ages of 20 and 30 are engaged, all I have to do is to separate first the Irish

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males, then the age period 20 to 30, and then those engaged in occupations. The volume before us illustrates the fruitfulness of the method. It contains a greater detail of information in respect to population than has ever been presented in any previous census taken in this country. The population of Massachusetts is analyzed in the following directions: number, increase and decrease, by towns; sex; polls and voters; families, number and size; dwelling houses, number and material; color and race, by native and foreign-born; conjugal condition, by native and foreign-born and age-periods; ages; relation to head of family; place of birth; parent nativity. Many of these facts are correlated.

The most interesting data presented in this volume are those in relation to parent nativity, that is, native or foreign parentage. Some of the facts disclosed are astonishing. The following little table will give them in a summarized form:

PARENT NATIVITY.	NATIVE BORN.		FOREIGN BORN.		TOTAL NATIVE BORN.	TOTAL FOREIGN BORN.	TOTAL POPULATION.
	Males.	Females.	Males.	Females.			
The State	688,284	726,990	244,600	282,267	1,415,274	526,867	1,942,141
Native parentage . . .	407,618	445,621	966	1,286	853,239	2,252	855,491
Foreign parentage . . .	198,238	204,955	239,700	276,976	403,193	516,676	919,869
Mixed parentage . . .	56,029	59,456	1,799	2,457	115,485	4,256	119,741
Unknown parentage . .	26,399	16,958	2,135	1,548	43,357	3,683	47,040

The following table reduces the above to percentages:

PARENT NATIVITY.	PERCENTAGES.		
	Of total native born.	Of total foreign born.	Of total population.
The State	100.00	100.00	100.00
Native parentage . . .	60.29	0.43	44.05
Foreign parentage . . .	28.49	98.06	47.36
Mixed parentage	8.16	0.81	6.17
Unknown parentage . .	3.06	0.70	2.42

In some of the factory towns almost the entire population is of foreign parentage. In the city of Holyoke, only 15.94 per cent of the inhabitants are of native parentage; in the city of Fall River, only 17.61 per cent; in Lawrence, only 21.87 per cent; in Lowell, 30.10 per cent; in Cambridge, 33.33 per cent.

An interesting question may be raised as to the future population of

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the state. With the unchecked immigration and the fact that the foreign-born are largely in the productive ages of manhood and womanhood, will not the native element become a fast disappearing fraction of the population? The census promises us statistics in the next volume of the number of children borne by native and foreign-born mothers and the number of children living. This will determine to a certain extent the question of relative fruitfulness. In the meantime this volume shows us the age classification of the native and the foreign-born. It appears that of the women from 20 to 39 years of age (the child-bearing period) the foreign-born are 36.25 per cent. This large proportion seems to be due partly to the employment of women in factories, which causes a large excess of women of that age among the foreign-born — even greater than the excess of women of that age among the natives. The proportion of the foreign-born that marry does not seem to be any greater than of the natives, as is shown by the following table:

CONJUGAL CONDITION OF NATIVE AND FOREIGN BORN IN MASSACHUSETTS. PERSONS 20 YEARS OF AGE AND OVER: *Percentages.*

CONJUGAL CONDITION.	MALES.		FEMALES.		AGGREGATES.	
	Native.	Foreign.	Native.	Foreign.	Native.	Foreign.
Single	32.20	25.90	29.09	25.67	30.57	25.78
Married . . .	62.19	67.92	56.16	57.97	59.02	62.58
Widowed . .	5.34	6.10	14.34	16.24	10.07	11.54
Divorced . . .	0.25	0.06	0.41	0.11	0.33	0.09
Unknown . .	0.02	0.02	...	0.01	0.01	0.01

The labor bureau report consists of the census figures of the unemployed. It must not be supposed that this return throws light on the number who were unemployed on account of strikes or labor troubles, or because trade was dull, or because they were tramps and vagabonds — it may include all these, but it does not specify them. It is simply an enumeration of the number of months each person was actually unemployed at his occupation, or at any other occupation. Fishermen, for instance, are commonly unemployed four months of the year at their chief occupation. The figures give us interesting information regarding different occupations, but they are not a contribution to the question of competition among laborers to get work. The conclusion, therefore, that the work might have been done by this same number of laborers in 307 days working only nine hours per day has no practical value, because in many occupations the time cannot be distributed.

R. M. S.

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Report of the Maryland Tax Commission to the General Assembly. With supplementary report on *Taxation in Maryland* by RICHARD T. ELY. Baltimore, 1888. — 8vo, 200, ccii pp.

The question of tax reform is becoming a burning one with us. It may safely be said that there is no other civilized community in the world with a tax system at all comparable to ours in primitiveness. What was suitable for the colonies and the localities at the end of the last century is plainly inadequate to-day. The infants have become lusty youths, and have entirely outgrown their swaddling clothes, in which they are still wrapped. The discontent is growing loud and general. Commission after commission is appointed, and the last decade has witnessed some slight change in the tendency of legislation. During the past four years we have had special reports of the commissions of no less than four states, West Virginia, South Carolina, Illinois, and Connecticut. Now a fifth has just appeared, that of Maryland, which deserves more than a passing notice.

The report proper points out that the Maryland system of direct taxation possesses many advantages over those of neighboring states. The assessors are not elected but appointed, thus minimizing the danger of improper influences; the assessments are made by county officers, and not by those of petty subdivisions, thus avoiding local jealousies and efforts to reduce the assessments of localities; the same basis is used for state and county taxation, so that no county can reduce its assessments without reducing its local resources. But the greatest advantage is one to which the commission only barely refers. Everywhere throughout the United States, as in Europe, there exist two methods of levying taxes. According to the first method, the state taxes would be assessed by state officers, in given lump sums of so many thousand dollars upon each county, and the county would then proceed to divide this lump sum among the ratables. According to the second method, the state officers would simply fix upon a certain quota or percentage, which is to be imposed on every hundred dollars of property throughout the state, as valued by the local assessors. In France these taxes are called *impôts de répartition* and *impôts de quotité* respectively. In England and America there is, unfortunately, no specific name, simply because there is no science of finance. But the facts exist equally here. It may be well, therefore, to call them *apportioned* and *non-apportioned* taxes respectively. The distinction may be best expressed in the words of M. Cohen: "In the first (apportioned) the amount of the tax depends on the quotas of the individuals; in the second (non-apportioned) the quotas of the individuals depend on the amount of the tax." In most of our American commonwealths the property tax is apportioned, and

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the consequence is seen in the crying inequalities between the counties and the crude makeshifts of the boards of equalization. In Maryland, on the other hand, the property tax is non-apportioned, so that there is no resulting competition between the counties. This is, indeed, an immense advantage; which is shared by very few states in the Union. This whole subject of apportionment of taxation has never been worked up. Some most instructive lessons may be learned from the history of mediæval and modern England, as well as of our own country, in this respect. But this is manifestly not the place to set forth the facts. It is, however, much to be regretted that the Maryland report does not treat the matter more fully.

The disadvantage of the Maryland system in general is that there are no periodical assessments. That defect is one peculiar to Maryland and a few other states. But the one great defect which Maryland discloses in common with other states is the utter inadequacy and failure of the personal property tax. Although the failure is so notorious, the commission does not propose to exempt personal property, but contents itself with the proposal to exempt book accounts when the stock on shelves is assessed. Dr. Ely, in his supplementary report, goes further, and proposes a total exemption of personal property, which would necessitate a change of the constitution. The main proposals of this supplementary report are: exemption of real estate from state taxation; taxes on corporations (including taxes on the gross receipts of railroads) and an income tax as the chief sources of state revenue; the tax on real property and a tax on the rental value of places of business as the chief sources of local revenue.

In this scheme there are several points to be noticed. The limitation of the real property tax to localities is a good plan, if only for the reason that it is an apportioned tax. Apportioned taxes are never suitable for state purposes. Were the real property tax to become local, as is practically the case in England, we should escape all the inequalities and the makeshifts of boards of equalization with which we are now so familiar. France finds the same difficulty with her general land tax. The project of separating local from state revenues, as it is proposed by recent German financiers, is hence a good one. The proposition of an income tax has likewise much in its favor. Many of our tax reformers recommend exemption of personal property. But that in itself is not sufficient and cannot be upheld by any fanciful doctrine of diffusion of taxes. It would simply result in an undue burden on real estate. Some form of income taxation is necessary in order to reach those who would otherwise go untaxed. But the discussion in the report is not by any means full enough. The question arises whether, if real property is already taxed, an exemption should not be permitted for the income

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from real property. Otherwise the income of personal property would be taxed once, and that of real property would be taxed twice, once as income tax, once as property tax. Neither this question nor any of the other important points as to advisable exceptions and exemptions in the income tax are treated at all in this report. Furthermore, even granting the expediency of an income tax, it is questionable whether it should be a state or local tax. The argument against the income tax as a local tax is that it might lead to a loss of business or population. On the other hand the same objection may be made to a state income tax when compared with a national income tax. Moreover it must not be forgotten that in some of our states the great extension of corporate taxation together with the collateral inheritance tax in themselves bid fair to cover all state expenses, thus rendering unnecessary any resort to either the real property or the income tax as state taxes. The mere proposition of an income tax brings up a host of questions which the report does not attempt to treat exhaustively.

Both the main and the supplementary report recommend the taxation of railroads through gross receipts according to the Wisconsin license fee system. This appears to me a mistake. The just basis of corporate as of all taxation is net earnings, not gross earnings. The gross earnings tax is like the tithe on lands. It bears no proportion to the ability of the tax payer, because it takes no account of expenses. Every country in Europe taxes railroads through net earnings. Of course net earnings do not mean dividends, but gross earnings minus operating expenses. Railroads built chiefly on the proceeds of the mortgage bonds could then not claim that the interest on the bonds must be deducted before net earnings are ascertained. That would patently render net profits very small and make the tax unprofitable. But net earnings in the real sense of the term form the only just source of railroad taxation.

The supplementary report is mainly a discussion of practical questions. The theoretical portion does not make much pretension to completeness; thus the "principles of taxation" are declared to be equality and the last three of Adam Smith's classical rules. Mill's interpretation of equality as equality of sacrifice is adopted, but no mention is made of the opposing interpretation. Nor is there any discussion of universality of taxation. The value of the report thus lies chiefly in the details of practical administration, and in the bare suggestions for a general reform of our whole system. Appended to the report is an interesting but anonymous historical sketch of taxation in Maryland.

E. R. A. S.

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A Treatise on the Law of the Customs. By WEBSTER ELMES. Boston, Little, Brown & Co., 1887. — 8vo, xxxii, 532 pp.

The agitation now going on in Congress over the revision of the tariff makes the appearance of this book timely and its examination profitable. Mr. Elmes's work is not original in its nature; he does not pretend to advance any views of his own on the history of customs legislation, or on its influence upon the economic condition of the country. *The Law of the Customs* is a careful, clear, and systematic treatise on the working of the laws that govern the assessment and collection of duties on importations. The book is primarily of value to the merchant seeking trustworthy information; but the copious marginal references to decisions of the United States courts in customs cases make it no less worthy of the attention of the lawyer and of the student of administration. The method of treatment adopted is the discussion of the various stages through which an importation goes, or may go, from the moment of purchase to the discharge from the custom house. Besides this, the author discusses the subjects of ships and vessels, officers of the customs, smuggling, and the rules for the construction of customs laws. The success with which the work of condensation has been accomplished is evident, when we remember that since the adoption of the present tariff on March 3, 1883, the department decisions fill every year a volume of about the size of Mr. Elmes's book.

Omitting all considerations of the merits of an *ad valorem* tariff from an economic or financial standpoint, the demerits of the present tariff in the eyes of the administrative lawyer are very prominent. The "market value," upon which all *ad valorem* tariffs are based, is practically a fiction. The same class of goods, on the same day, is sold to different purchasers at prices which vary in accordance with the size of the transaction and the credit of the buyer, the accumulation of stock and the need of money on the part of the seller, and many other conditions. The appraiser, moreover, must pass on goods which have a fictitious value, due to the fluctuating dictates of fashion, with which, being neither a buyer nor a seller, he cannot possibly be acquainted. The affixing of a consular certificate — which is purely a perfunctory act, inasmuch as the consul is equally ignorant of the market — deserves and receives no respect from the appraiser. The necessity of making out invoices in triplicate, and of paying a consular fee of $2.50 on each, is another anomaly. The most vexatious and least equitable feature of the system is the re-appraisement. If an importer feels that he has been wronged by the appraiser, his first appeal for redress must be directed to a tribunal composed of his rivals in business. To these he must disclose the name of the merchant from whom he buys his wares, and inci-

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dentally the source of his livelihood, thus destroying the fruits of his superior industry, prudence, and thrift. Rather than submit to this, the importer will often add such an amount to the price set down in the invoice as will satisfy the most captious appraiser. The law now compels him to commit perjury; for he must swear that his addition causes the invoiced price to equal the market value, although he may know that the invoiced price plus the addition exceeds the market value by many dollars. That the importer in collusion with the examiner may defraud the government of much money and ruin his commercial rivals, and by means of political influence may secure the removal of a treasury official who refuses to swerve from the paths of duty, are facts that require no demonstration.

Thus it is evident that the customs laws work an injury to the government and to the importer; and it is not the least among their defects that they undermine the self-respect of the citizen, and destroy his respect for the law of the land.

ROBERT WEIL.

Taxation: Its Principles and Methods. Translated from the *Scienza della Finanze* of Dr. LUIGI COSSA, with an introduction and notes by HORACE WHITE, together with a compilation of the state tax systems of New York and Pennsylvania. Putnam's Sons, 1888.

The appreciation with which students have greeted Dr. Cossa's little volume is shown by the fact that it has already been translated into the German, Swedish, Polish, Russian, and Spanish languages. No unworthy book could have met with such a hearty reception, and when we look into this, the American edition, it is at once seen to possess those peculiar merits which we have learned to expect in all that Professor Cossa writes. Its definitions are clear, its statements simple, and its classification comprehensive. An illustration of the simplicity of the author's distinctions may not be out of place. One who has studied German text-books on the science of finance knows how hard it is to grasp the discussions which they contain on the subject of *Gebühren*. The reader learns that the payments which go under this name are payments for specific services, but the line to be drawn between fees and taxes he finds somewhat difficult to trace. Notice how clearly and concisely Professor Cossa puts this point:

In scientific language, fees, costs, and charges are the remuneration for public services which are rendered to private individuals at their request. They differ, therefore, from ordinary taxes:

1st. By their object, because the former refer to special services that have been voluntarily sought, and the latter to general services that have been compulsorily offered.

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2d. By the criterion of assessment, which, as regards fees, *etc.*, is the amount of expense incurred, and, as regards taxes, the amount of the property of the tax-payers.

After a student has become utterly confused by the politico-philosophic maunderings of German writers on finance, such a flash of simplicity as the above gives a positive intellectual pleasure.

The problem of classification is the hardest problem, so far as form is concerned, which the science of finance presents. The occasions for public expenditure, as well as the sources of public income, in modern states, are so numerous that a writer who desires his treatise to be comprehensive is obliged either to be prolix in his discussions or to carry classification to an extent which destroys literary form. Professor Cossa has chosen the latter alternative, and there are quite a number of pages in his book filled with headings and sub-headings which give it the appearance of an outline for university lectures. It might perhaps be appropriately regarded as the companion volume to the author's well-known *Guide to the Study of Political Economy*.

The idea which Professor Cossa holds respecting the scope of finance as a science is a little different from that with which we have become familiar in the commonly received text-books. According to him, the science of finance "is the body of principles which relate to the public estate (*patrimonio*)." It "divides itself naturally into three parts, which treat of expenditure, of income, and of their relations to each other." This, it will be observed, does not include rules for financial administration, for financial organization, or for the passage of money bills. The broader view of the subject seems to me the preferable one, although this preference may possibly spring from having worked my way into the subject under the guidance of the more comprehensive definition.

The subject of taxation claims the larger share of the author's attention in this volume, and in its discussion many valuable suggestions are presented. The classification of the rules of general taxation into juridical, economic, and political seems to be especially happy. It is like one of Edison's inventions, so simple that we wonder why no one ever hit on it before.

No small part of the value of this book is due to the editor's notes and appendix. In the appendix is to be found a description of the tax systems of New York and Pennsylvania. The notes are in reality short chapters discussing, from the American point of view, taxation of mortgages, of personal property, of corporations, of land values, and taxes on consumption. In the note on the taxation of land values the editor gives his reasons for dissenting from the theory of taxation urged

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by Mr. Henry George, but it is doubtful if his argument puts the case in its strongest light. Indeed, it is difficult to see why a theory pertaining to the institution of private property should be brought into a study of finance. At the end of the book there is a comprehensive and most valuable bibliography of the science of finance which the editor has been careful to bring down to date.

HENRY C. ADAMS.

Essai sur les finances et la comptabilité publique chez les Romains. Par GUSTAVE HUMBERT, professeur honoraire à la Faculté de Droit de Toulouse, ancien procureur général près la Cour des Comptes, membre du Sénat. Paris, Ernest Thorin, 1886. — 2 vols., large 8vo, 540, 501 pp.

The line of demarcation between finance and administration is often unclearly drawn. Strictly speaking, the science of finance has two aspects — the economic and the administrative. Finance as an economic science discloses the underlying principles of public revenue and expenditure in their effects on the wealth of the individual and the state. Finance as an administrative science discusses the technical rules which regulate the relations of individual and state. Finance in the administrative aspect does not discuss, for instance, the bases or incidence of taxation. It treats of the financial machinery, its organization, its subjects, and its control. At the present time the administrative side is perhaps no less important than the economic side.

The economic side of Roman finance has been treated in a masterly fashion by Rodbertus; the administrative side has been discussed in the general works of Mommsen, Marquardt, and Madvig. We have now for the first a comprehensive work on one (and perhaps the most important) topic in administrative finance. For M. Humbert confines himself almost exclusively to the questions of control — legislative, administrative and judicial.

The work is the result of twenty-five years' research, and, like the productions of many French professors of law, is distinguished by a thorough acquaintance with the recent German and Italian literature on the subject. In this respect the French jurists have generally been far superior to the French economists, and it is chiefly because M. Humbert is an historian and a lawyer that we may read his conclusions with the comforting assurance that they have been refined in the crucible of careful comparison with acknowledged authorities.

The right of granting the taxes and of fixing the budget during the Republic was reserved to the Senate. The people in the *comitia* pos-

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sessed no power except that of abolishing a tax or alienating the public domain. This is easily explicable when we remember that the direct property tax (*tributum civium*) was an extraordinary source of revenues, and that universal taxation as such played a small rôle compared with the other sources of state income. The whole republican system of finance, however, is well known; and it cannot be said that M. Humbert succeeds in throwing any new light on the subject, with the exception perhaps of the exact duties of the various financial magistrates.

In the Empire it is different. Here there is much that has hitherto been dark, especially in the late imperial system, the *bas-empire*. A very clear account is given of the process through which the *aerarium*, or public funds, was gradually absorbed and converted into the *fiscus*, or imperial property, until nothing was left except communal independence — and even that only to a limited extent. Not only is the history of each tax, whether imperial or local, traced with care, but the gradual transformation of the whole financial equilibrium, the changes in the functions of the officials, and the centralization of financial control are set forth in a lucid and painstaking manner. M. Humbert does not scruple to join issue with Mommsen in various points, and often makes out a good case, *e.g.*, as regards the alleged distinction between the private and public property of the emperor (*res privatae* and *res fiscales*, I, 197).

By far the greater portion of the work is devoted to an account of the finances after the reforms of Diocletian and Constantine. Humbert here succeeds in clearing up many confusions as to the exact methods of levying the taxes, and of controlling the officials. Of especial value to us Americans of the present day is the criticism of local taxation and local expenditure. Our whole system of taxation is one calculated for a primitive community. It is interesting to notice the evolution through which the Roman municipalities went, and to see how the gradual complication of their system and the lack of an adequate control produced corruption and final ruin. A most instructive monograph might be written to compare the administrative side of Roman and American local taxation.

Over one-half of M. Humbert's work consists of notes and discussions of controverted points. The reader is made acquainted with the newest views of others, and is referred to the original sources; so that it is an easy matter to check the writer and form an independent judgment. The author has succeeded in winnowing much grain from the chaff, and his book must henceforth occupy a prominent position on the shelves of students of Roman taxation.

E. R. A. S.

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Die Kreis- und Provinzial-Ordnungen des Preussischen Staates (für die östlichen Provinzen, sowie für Hannover, Hessen-Nassau u. Westfalen) nebst den Dotationsgesetzen. Synoptische Ausgabe mit erlauternden Anmerkungen von CONRAD BORNHAK. Berlin, J. J. Heines Verlag, 1887. — iv, 280 pp.

Die Kommunalverwaltung. Sammlung praktischer Handbücher fur den kommunalen Verwaltungsdienst. Zusammengestellt von H. STEFFENHAGEN. Berlin, J. J. Heines Verlag, 1887.

The great reform in the local government of Prussia, the foundation for which was laid in the beginning of the century by the legislation of Stein and Hardenberg and the successful completion of which has been due pre-eminently to the writings of Professor Gneist and the political sagacity of Prince Bismarck, has led, among other things, to the multiplication of little handbooks on local government and administration. The books whose titles are given above are of this class. Intended in the main for the use of local officers, they contain so much detailed information that no thorough student of German local institutions can well afford to be without them. The book of Mr. Bornhak, whose work on the history of Prussian administrative law has already been noticed in the QUARTERLY, gives with a running commentary the texts of the various laws, dating from about 1872, which govern the organization of the province and of the circle — the administrative division corresponding to our county. On account of the different circumstances of the various provinces, it has been necessary to pass separate laws, differing somewhat in details, for each province or group of provinces; and Mr. Bornhak has therefore adopted the plan of placing under each section of his work the articles of all the laws relating to the particular subject or of indicating briefly the differences between the various laws. In his commentary, he cites all the important decisions of the courts made in the interpretation and construction of the laws. In an introduction, he gives a clear and concise history of the reform legislation which his little work is intended to present and to elucidate. This account is of material assistance to a right understanding of the reform.

Die Kommunalverwaltung is a work of the same character. That is, it is a compilation of the various laws passed in Prussia for the government of the cities and townships. Its arrangement, however, is different from that of *Die Kreis- und Provinzial-Ordnungen,* and it is on that account less useful to the foreign student; for each province is treated separately and indeed in a separate volume. The series is composed of five little volumes devoted to the various municipal corporation acts of the different provinces and groups of provinces; one

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volume concerning the instructions issued to the city executive authorities by the central government; and two volumes devoted respectively to the administration of the poor law and to the county townships in the province of Westphalia. Each volume contains notes by the compiler in explanation of the laws treated.

These books are little more than reprints of the laws with explanations of obscure points. They do not attempt a scientific discussion of the various subjects set forth; but they are convenient in size, and will be found extremely useful in studying the present local institutions of Prussia.

FRANK J. GOODNOW.

La France sous l'ancien régime. Par le vicomte DE BROC. Paris, E. Plon, Nourrit et Cie, 1887. — 8vo, 424 pp.

The subject which the Vicomte de Broc has chosen is not a novel one, but it is of the greatest importance and the greatest interest. Though much has been written on the condition and the government of France during the eighty years before the Revolution, that period is hazy in the minds of most English readers. The dramatic annals of the Revolution are familiar, but the conditions which slowly led up to the most important event in modern times have received but little study from English scholars. They possess a charm for all who care to read of a brilliant society which has perished from the earth, and a value for all who wish to learn the lessons which history has to teach.

The present is the result of all the past, and the long progress of the French monarchy had its influence on the final overthrow; yet in the years that followed the death of Louis XIV we can trace the immediate causes of the downfall of that ancient government. When the "grand monarque" died, it was not too late so to reform the administration that the Bourbons should have become constitutional rulers over a prosperous and contented people. When Louis XVI ascended the throne, fifty-nine years later, social conditions had so shaped themselves, political traditions and religious beliefs had so altered, that the endeavors of an amiable king to improve the lot of his people only hastened his own ruin.

France became what Metternich called an intermittent monarchy, and now, for nearly twenty years, she has been a republic. The most ardent democrat can not claim that her republican government has been in all respects successful. Its temporary errors do not, indeed, prove that it is doomed to final failure. The republic found France suffering under the most disastrous defeat which she had experienced since the fall of the first Napoleon — a defeat for which no parallel could be found in her annals during the three hundred and fifty years preceding the Revolu-

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tion. This is the first serious and continued experiment that the French have made in popular government. It is something that the republic should have lasted for almost twenty years in a country where political changes have, during this century, been so sudden and so frequent. Still, ephemeral administrations, public scandals, an increasing debt, internal instability, and a diminished influence abroad, are not satisfactory to French pride or French patriotism. It is not unnatural that some should turn back with regret to the period when, under a strong and centralized government, France was the first power in Europe. The study of the régime which the Revolution destroyed, thus bears closely on the politics of the day. While some see in those who overthrew the former government the enlightened harbingers of a better day, others find in their acts little but folly, greed and fanaticism.

The old régime is therefore a subject not only of historic interest, but of present importance. We regret to say, however, that we do not think the Vicomte de Broc has given material assistance to its study. Though one might be far from agreeing with many of his views as to the condition of France prior to the Revolution, yet there is nothing in this book to criticise very severely. It is not marred by special inaccuracies, nor by strong prejudices, nor by grave faults of matter or manner, but we fail to discover any good reason why it should have been written at all. The author declares that democracy in France has shown that it is incapable of governing itself, and he confesses the hope that the illustrious house of French kings will yet bring to that country the blessings of a modern monarchy. He points out many merits in the old régime, and yet he by no means glosses over its serious defects. He views it, indeed, as it might naturally be regarded by a French nobleman, but a nobleman of education and intelligence, who recognizes the fact that the return of such a government as that of Louis XIV is no more to be expected or desired than the reappearance of the megatherium. The trouble with this book is that it tells us nothing new, and that it is little more than a collection of scraps and bits of by no means recondite information. Its writer has, apparently, made no extensive study into the institutions of which he treats. He has not pored over manuscripts, nor occupied his hours in ransacking the contents of the public offices. The authorities he cites are works, all of which are familiar to any student of French history, and many of which are familiar to the general reader.

If one desires a philosophical and masterly analysis of the old régime, he will find it in de Tocqueville, whose great work has not been superseded by anything that has since been written. If he wishes a vast amount of information, collected from original authorities, skilfully arranged and rendered interesting by a vivacious and a brilliant style, he

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can read Taine's *Ancien Régime*. If he is a student, and seeks to become familiar with the precise nature of the former institutions of France, he can learn much from Chéruelt's *Dictionaire des Institutions*, and many similar works.

The Vicomte de Broc has not added to our store of information concerning the old régime, and he has not the art of arrangement, or of analysis, or of philosophical deduction, which can convert the researches of others into forms that shall attract the public attention. His work is not of special value to the student. It is not of special interest to the ordinary reader; and so, although it is temperate in tone, respectable in scholarship, and moderate in bulk, it does not seem to be an important contribution to French history.

JAMES BRECK PERKINS.

History of Prussia under Frederic the Great. By HERBERT TUTTLE. Vols. I and II. Boston, Houghton, Mifflin & Co., 1888. — xvi, 308 and 334 pp.

Professor Tuttle, whose *History of Prussia to the Accession of Frederic the Great* has done so much for a proper understanding, in this country, of the growth and consolidation of the Prussian state in the seventeenth and eighteenth centuries, has taken up the thread of the narrative where he left it off in his former book, and, in the present two volumes, carries us down from the beginning of Frederic's reign to the outbreak of the Seven Years' war.

Mr. Tuttle is no hero worshipper. His admiration for the great king is not altogether an unmixed one. Yet he by no means underrates the extraordinary genius of the man, his keenness of judgment, his boldness of action, his almost unlimited capacity for work. And since Carlyle's *Friedrich II* there has been perhaps no other book in English or American literature which draws the figure of the king as the centre and mainspring in the political organization of the Prussia of that time in outlines so clear and strong. The main efforts of recent historical writers on Frederic's reign have been directed toward details. A great mass of new material has been accumulated, none of it so important as the *Politische Correspondenz* and the various other publications from the Prussian archives. But Mr. Tuttle is the first to bring this new material to bear upon the whole of Frederic's government — the first, since Carlyle, to gather the scattered researches about various phases of Frederic's policy and character into one complete and well-rounded picture of the man.[1]

[1] In Germany, Prof. W. Oncken, in his Zeitalter Friedrichs des Grossen (Berlin, 1881), has undertaken a task somewhat similar to that of Professor Tuttle, although different in its compass.

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And yet it is not here that the chief value of these volumes is to be found. However greatly our knowledge of the details of Frederic's life and personality may have been increased of late, the main features of the portrait drawn by Carlyle have remained unchanged; and Mr. Tuttle does not mean to sing an *Ilias post Homerum*. Not the history of Frederic, but the history of Prussia under Frederic is his subject. To use Mr. Tuttle's own words, "it is the development of polity, the growth of institutions, the progress of society," which he has made it his object to describe. The picture is, upon the whole, far from being pleasant. A king, who calls himself and indeed is the first servant of the state, but who, at the same time, is entirely devoid of any human sympathy with his subjects, being alienated from them "by his tastes, by his language, by his tone of mind and methods of thought, by his views upon society, religion, moral conduct, and other momentous concerns of human life"; an army, unparalleled for its discipline and efficiency, but sorely lacking the sense of freemen and of true, manly patriotism; a host of officials, strict, honest, indefatigable, but mere tools in the hands of superiors, harsh, illiberal, unamiable; a people, orderly and industrious, but without initiative and self-reliance, hemmed in by unsurmountable class distinctions, cowed by governmental interference, — in short a system of government which "sacrifices society to the state, the classes to society, and each individual to his own class." There is doubtless a great deal of truth in this picture; and as a reaction against the blind praise and worship which of late has been heaped so lavishly upon the great king's name, it will help the cause of just and impartial judgment and of true historical insight.

As yet, however, Mr. Tuttle has not spoken his last word about the Friderician system; he promises us two other volumes, which are to cover the last thirty years of Frederic's reign. And perhaps it is not out of place to suggest one point which, if taken into due account, seems likely to influence decisively his final verdict: the tremendous moral force, namely, which after all was the moving spirit of the apparently spiritless and automatic machinery of the Prussian state under Frederic's rule. There are times in a people's history when concentration of all forces upon one end is a public duty, when the gain of the community cannot be had except at the cost of the individual, when freedom must be sacrificed to the performance of a great national task. That Frederic and his people were alive to this necessity, is the one thing which has given to Prussia the moral claim to leadership in Germany.

KUNO FRANCKE.

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Bibliotheca Jeffersoniana: A List of Books written by or relating to Thomas Jefferson. By HAMILTON BULLOCK TOMPKINS, New York; G. P. Putnam's Sons, 1887. — 8vo, 187 pp.

Bibliographical works have two standards by which their value may be measured: (1) How much do they increase our knowledge of the literature of a subject? (2) How complete are they? Measured by the first rule, the above work is a valuable addition to our books of reference; by the second, it still leaves a bibliography of Jefferson to be compiled.

Omitting all notice of the Jeffersoniana, which is moderately complete, we will examine the list of Jefferson's own writings. Of his messages, Mr. Tompkins gives "only the most important of those he has found," showing a lack of perception concerning bibliography which in view of the good work in certain parts of the volume is rather surprising. The government documents are a trial to all cataloguers; and if Mr. Tompkins lacked the time or patience to examine the almost perfect sets (for this period) in the Boston Athenæum or New York Historical Society libraries, he might have so stated. But to set up his own individual opinion as to what is important, and what is not, is to overstep the bounds of the bibliographer, who, whatever else, should be inclusive. Equally imperfect, is the list of Jefferson's reports as secretary of state. The most notable of the other omissions are: all editions save one (and that printed in 1876) of the Declaration of Independence, perhaps the most famous paper that has ever come practically from the pen of one man; Jefferson's report, in conjunction with Wythe and Pendleton, on the revision of the laws of Virginia, printed in 1784; his famous letter on slavery, written to Benjamin Banneker, and printed in 1793; and all editions of the Virginia and Kentucky resolutions of 1799, except Elliot's of 1832.

The arrangement is good; the work as far as it goes seems accurate; and the indexes are unusually full, leaving in that respect nothing to be desired. Typographically it is above praise.

PAUL LEICESTER FORD.

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